

AMENDED IN SENATE APRIL 23, 2008

SENATE BILL

No. 1241

Introduced by Senator Margett

February 14, 2008

An act to *amend Section 56.103 of the Civil Code*, to amend Sections 3130, 3425, ~~3448, and 17505~~ and 3448 of the Family Code, to amend ~~Sections 15029 and 15155~~ *Section 15029* of the Government Code, to repeal Section 11648 of the Health and Safety Code, *to amend Section 227 of the Labor Code*, to amend Sections 290.3, ~~830.2~~, 538d, 830.2, 1126, 1170.11, 1298, 11102.1, 11112.5, 11167.5, 12020, 12076, 12082, 13825.3, and 14204 of, and to repeal Section 12091 of, the Penal Code, ~~and to amend Section 10652~~ *Sections 10652, 13352, and 40002* of the Vehicle Code, *and to amend Sections 731.1, 733, 1731.5, 1766, and 1767.35 of the Welfare and Institutions Code*, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1241, as amended, Margett. Public safety.

(1) Existing law provides procedures for the enforcement of child custody orders and support obligations.

This bill would make technical, nonsubstantive changes to those provisions.

~~(2) Existing law requires state, county, and local agencies to cooperate with the local child support agency in the enforcement of any child support obligation and spousal support orders, and in the location of parents or putative parents. Existing law also requires those agencies to cooperate with the district attorney in implementing related laws concerning the location, seizure, and recovery of abducted, concealed, or detained minor children.~~

~~This bill would require those agencies to cooperate with the district attorney in implementing related laws concerning the location, seizure, recovery, and return of any missing, taken, abducted, concealed, or detained minor child and the location of any person in possession of a missing, taken, abducted, concealed, or detained minor child, and the enforcement of custody or visitation orders. By requiring county and local agencies to provide additional services, this bill would impose a state-mandated local program.~~

~~(3) On request, existing law requires all state, county, and local agencies to supply the local child support agency of any county in this state or the California Parent Locator Service with all information on hand relative to the location, income, or property of any parents, putative parents, spouses, or former spouses, notwithstanding any other provision of law making the information confidential, and with all information on hand relative to the location and prosecution of any person who has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child, as specified.~~

~~This bill would require, on request, all state, county, and local agencies to supply the district attorney of any county in this state with all information on hand relative to the location of any missing, taken, abducted, concealed, or detained minor child and the location of any person in possession of that child, and with all information on hand relative to the location and prosecution of any person who has taken, abducted, concealed, or detained a minor child or maliciously taken, enticed away, kept, withheld, or concealed a minor child or maliciously deprived a lawful custodian of a right to custody or visitation, notwithstanding any other provision of law making the information confidential. By requiring county and local agencies to provide additional services, this bill would impose a state-mandated local program.~~

~~(4)~~

(2) Existing law requires the Department of Justice to annually report on its activities and accomplishments to the Legislature and to federal, state, and local law enforcement agencies, as well as to other interested groups. Existing law requires that report to include a separate report on the activities of the Crack Down Task Force Program, which has the responsibility for establishing, conducting, supporting, and coordinating crack down task forces composed of state and local law enforcement agencies targeting the investigation and apprehension of the Colombian cartel-street gang cocaine networks.

This bill would delete the requirement that the Department of Justice's annual report include a separate report on the activities of the Crack Down Task Force Program.

~~(5) Existing law directs the Attorney General to appoint an advisory committee, with specified members, on the California Law Enforcement Telecommunications System to advise and assist him or her in the management of the system with respect to operating policies, service evaluation, and system discipline.~~

~~This bill would require that committee to include one representative from the Chief Probation Officers of California.~~

~~(6)~~

(3) Existing law requires the Department of Justice to establish a Clandestine Laboratory Enforcement Program to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting persons involved in the unlawful manufacture of controlled substances. Existing law also requires the Department of Justice to report annually on its activities and on the accomplishments of the Clandestine Laboratory Program to the Legislature and to federal, state, and local law enforcement agencies, as well as to other interested groups.

This bill would delete provisions that require the Department of Justice to make those annual reports.

~~(7)~~

(4) Existing law, enacted by initiative statute, requires sex offenders, as defined, to pay a fine, as specified. Existing law transfers \$100 for each of those fines imposed in excess of \$100 to the Department of Corrections and Rehabilitation to defray the cost of the global positioning system used to monitor sex offender parolees.

Existing law permits the Legislature to amend those provisions by a statute passed in each house by rollcall vote entered in the journal, $\frac{2}{3}$ of the members of each house concurring, or by a statute that becomes effective only when approved by the voters.

This bill would instead transfer $\frac{1}{3}$ of every first conviction fine collected and $\frac{1}{5}$ of the second and subsequent conviction fine for that purpose.

(5) Existing law declares that whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund, or vacation plan, or other similar plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for those payments, it is unlawful for that employer willfully or with intent to defraud to fail

to make the payments required by the terms of that agreement. A violation of that provision where the amount the employer failed to pay into the fund or funds exceeds \$500 is punishable by imprisonment in the state prison for a period of not more than 5 years or in the county jail for a period of not more than one year, by a fine of not more than \$1,000, or by both that imprisonment and fine.

This bill would change that punishment to be imprisonment in the state prison, or in a county jail for a period of not more than one year, by a fine of not more than \$1,000, or by both that imprisonment and fine.

~~(8)~~

(6) Existing law grants specified peace officers authority that extends to any place in the state, including any member of the Law Enforcement and Investigations Unit of the Department of Corrections, as specified.

This bill would extend that authority to any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation; *whose primary duties are* as specified.

~~(9)~~

(7) Existing law authorizes the imprisonment of a person who manufactures, imports, sells, or possesses specified weapons. Existing law exempts from that provision the sale to, purchase by, or possession of, short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces, as specified.

This bill would specify, in addition, the sale to, purchase by, or possession of, short-barreled shotguns or short-barreled rifles by the Department of Corrections and Rehabilitation, as specified, is not punishable by imprisonment.

~~(10)~~

(8) Existing law declares the possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, to be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

This bill would repeal that provision.

~~(11)~~

(9) Existing law requires the Department of Justice to prepare and submit an annual report to the Legislature regarding the California Gang, Crime, and Violence Prevention Partnership Program, as specified.

This bill would require the department to file that report only in years in which the program receives funds.

(12)

(10) Existing law requires the Corrections Standards Authority to provide for the presentation of training to peace officers which will enable them to more efficiently handle, on the local level, the tracing of missing persons and victims of violent crimes.

This bill would ~~instead require the Commission on Peace Officer Standards and Training to provide that training~~ delete that provision.

(13)

(11) *This bill would also provide that any section of any act, other than SB 1498, enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that affects, as specified, any one or more of the sections affected by this act shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act.*

This bill would also make other related, conforming changes.

~~(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56.103 of the Civil Code is amended to
2 read:

3 56.103. (a) A provider of health care may disclose medical
4 information to a county social worker, a probation officer, or any
5 other person who is legally authorized to have custody or care of
6 a minor for the purpose of coordinating health care services and
7 medical treatment provided to the minor.

8 (b) For purposes of this section, health care services and medical
9 treatment includes one or more providers of health care providing,
10 coordinating, or managing health care and related services,
11 including, but not limited to, a provider of health care coordinating

1 health care with a third party, consultation between providers of
2 health care and medical treatment relating to a minor, or a provider
3 of health care referring a minor for health care services to another
4 provider of health care.

5 (c) For purposes of this section, a county social worker, a
6 probation officer, or any other person who is legally authorized to
7 have custody or care of a minor shall be considered a third party
8 who may receive any of the following:

9 (1) Medical information described in Sections 56.05 and 56.10.

10 (2) Protected health information described in Section 160.103
11 of Title 45 of the Code of Federal Regulations.

12 (d) Medical information disclosed to a county social worker,
13 probation officer, or any other person who is legally authorized to
14 have custody or care of a minor shall not be further disclosed by
15 the recipient unless the disclosure is for the purpose of coordinating
16 health care services and medical treatment of the minor and the
17 disclosure is authorized by law. Medical information disclosed
18 pursuant to this section may not be admitted into evidence in any
19 criminal or delinquency proceeding against the minor. Nothing in
20 this subdivision shall prohibit identical evidence from being
21 admissible in a criminal proceeding if that evidence is derived
22 solely from lawful means other than this section and is permitted
23 by law.

24 (e) (1) Notwithstanding Section 56.104, if a provider of health
25 care determines that the disclosure of medical information
26 concerning the diagnosis and treatment of a mental health condition
27 of a minor is reasonably necessary for the purpose of assisting in
28 coordinating the treatment and care of the minor, that information
29 may be disclosed to a county social worker, probation officer, or
30 any other person who is legally authorized to have custody or care
31 of the minor. The information shall not be further disclosed by the
32 recipient unless the disclosure is for the purpose of coordinating
33 mental health services and treatment of the minor and the disclosure
34 is authorized by law.

35 (2) As used in this subdivision, “medical information” does not
36 include psychotherapy notes as defined in Section 164.501 of Title
37 45 of the Code of Federal Regulations.

38 (f) The disclosure of information pursuant to this section is not
39 intended to limit the disclosure of information when that disclosure
40 is otherwise required by law.

1 (g) For purposes of this section, “minor” means a minor taken
2 into temporary custody or as to who a petition has been filed with
3 the court, or who has been adjudged to be a dependent child or
4 ward of the juvenile court pursuant to Section 300 or ~~600~~ 602 of
5 the Welfare and Institutions Code.

6 (h) (1) Except as described in paragraph (1) of subdivision (e),
7 nothing in this section shall be construed to limit or otherwise
8 affect existing privacy protections provided for in state or federal
9 law.

10 (2) Nothing in this section shall be construed to expand the
11 authority of a social worker, probation officer, or custodial
12 caregiver beyond the authority provided under existing law to a
13 parent or a patient representative regarding access to medical
14 information.

15 ~~SECTION 1.~~

16 *SEC. 2.* Section 3130 of the Family Code is amended to read:

17 3130. If a petition to determine custody of a child has been
18 filed in a court of competent jurisdiction, or if a temporary order
19 pending determination of custody has been entered in accordance
20 with Chapter 3 (commencing with Section 3060), and the
21 whereabouts of a party in possession of the child are not known,
22 or there is reason to believe that the party may not appear in the
23 proceedings although ordered to appear personally with the child
24 pursuant to Section 3430, the district attorney shall take all actions
25 necessary to locate the party and the child and to procure
26 compliance with the order to appear with the child for purposes
27 of adjudication of custody. The petition to determine custody may
28 be filed by the district attorney.

29 ~~SEC. 2.~~

30 *SEC. 3.* Section 3425 of the Family Code is amended to read:

31 3425. (a) Before a child custody determination is made under
32 this part, notice and an opportunity to be heard in accordance with
33 the standards of Section 3408 must be given to all persons entitled
34 to notice under the law of this state as in child custody proceedings
35 between residents of this state, any parent whose parental rights
36 have not been previously terminated, and any person having
37 physical custody of the child.

38 (b) This part does not govern the enforceability of a child
39 custody determination made without notice or an opportunity to
40 be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this part are governed by the law of this state as in child custody proceedings between residents of this state.

~~SEC. 3.~~

SEC. 4. Section 3448 of the Family Code is amended to read:

3448. (a) A petition under this chapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state all of the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this part and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under Section 3445, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the

1 first judicial day possible. The court may extend the date of hearing
2 at the request of the petitioner.

3 (d) An order issued under subdivision (c) must state the time
4 and place of the hearing and advise the respondent that, at the
5 hearing, the court will order that the petitioner may take immediate
6 physical custody of the child and the payment of fees, costs, and
7 expenses under Section 3452, and may schedule a hearing to
8 determine whether further relief is appropriate, unless the
9 respondent appears and establishes either of the following:

10 (1) That the child custody determination has not been registered
11 and confirmed under Section 3445 and all of the following are
12 true:

13 (A) The issuing court did not have jurisdiction under Chapter
14 2 (commencing with Section 3421).

15 (B) The child custody determination for which enforcement is
16 sought has been vacated, stayed, or modified by a court having
17 jurisdiction to do so under Chapter 2 (commencing with Section
18 3421).

19 (C) The respondent was entitled to notice, but notice was not
20 given in accordance with the standards of Section 3408, in the
21 proceedings before the court that issued the order for which
22 enforcement is sought.

23 (2) That the child custody determination for which enforcement
24 is sought was registered and confirmed under Section 3445, but
25 has been vacated, stayed, or modified by a court of a state having
26 jurisdiction to do so under Chapter 2 (commencing with Section
27 3421).

28 ~~SEC. 4. Section 17505 of the Family Code is amended to read:~~

29 ~~17505. (a) All state, county, and local agencies shall cooperate~~
30 ~~with the local child support agency (1) in the enforcement of any~~
31 ~~child support obligation or to the extent required under the state~~
32 ~~plan under Section 17604 and Chapter 6 (commencing with Section~~
33 ~~4900) of Part 5 of Division 9 of this code, and Section 270 of the~~
34 ~~Penal Code, and (2) the enforcement of spousal support orders and~~
35 ~~in the location of parents or putative parents. The local child~~
36 ~~support agency may enter into an agreement with and shall secure~~
37 ~~from a municipal, county, or state law enforcement agency,~~
38 ~~pursuant to that agreement, state summary criminal record~~
39 ~~information through the California Law Enforcement~~
40 ~~Telecommunications System. This subdivision applies irrespective~~

1 of whether the children are or are not receiving aid to families with
2 dependent children. All state, county, and local agencies shall
3 cooperate with the district attorney in implementing Chapter 8
4 (commencing with Section 3130) of Part 2 of Division 8 and
5 Chapter 1 (commencing with Section 3400) of Part 3 of Division
6 8 of this code, and Chapter 4 (commencing with Section 277) of
7 Title 9 of Part 1 of the Penal Code concerning the location, seizure,
8 recovery, and return of any missing, taken, abducted, concealed,
9 or detained minor child and the location of any person in possession
10 of a missing, taken, abducted, concealed, or detained minor child,
11 and the enforcement of custody or visitation orders.

12 (b) On request, all state, county, and local agencies shall supply
13 the local child support agency of any county in this state or the
14 California Parent Locator Service with all information on hand
15 relative to the location, income, or property of any parents, putative
16 parents, spouses, or former spouses, notwithstanding any other
17 provision of law making the information confidential, and with all
18 information on hand relative to the location and prosecution of
19 any person who has, by means of false statement or representation
20 or by impersonation or other fraudulent device, obtained aid for a
21 child under this chapter. On request, all state, county, and local
22 agencies shall supply the district attorney of any county in this
23 state with all information on hand relative to the location of any
24 missing, taken, abducted, concealed, or detained minor child and
25 the location of any person in possession of that child, and with all
26 information on hand relative to the location and prosecution of
27 any person who has taken, abducted, concealed, or detained a
28 minor child or maliciously taken, enticed away, kept, withheld, or
29 concealed a minor child or maliciously deprived a lawful custodian
30 of a right to custody or visitation, notwithstanding any other
31 provision of law making the information confidential.

32 (c) The California Child Support Automation System, or its
33 replacement, shall be entitled to the same cooperation and
34 information provided to the California Parent Locator Service, to
35 the extent allowed by law. The California Child Support
36 Automation System, or its replacement, shall be allowed access
37 to criminal offender record information only to the extent that
38 access is allowed by law.

39 (d) Information exchanged between the California Parent
40 Locator Service or the California Child Support Automation

1 ~~System, or its replacement, and state, county, or local agencies as~~
2 ~~specified in Section 666(c)(1)(D) of Title 42 of the United State~~
3 ~~Code shall be through automated processes to the maximum extent~~
4 ~~feasible.~~

5 SEC. 5. Section 15029 of the Government Code is amended
6 to read:

7 15029. (a) The Crack Down Task Force Program is hereby
8 created within the Department of Justice with responsibility for
9 establishing, conducting, supporting, and coordinating crack down
10 task forces composed of state and local law enforcement agencies
11 targeting the investigation and apprehension of the Colombian
12 cartel-street gang cocaine networks.

13 (b) The department shall coordinate all investigations undertaken
14 by task forces operating under the Crack Down Task Force
15 Program with all local agencies having law enforcement
16 responsibilities within the jurisdictions involved. The department
17 shall also solicit participation by appropriate federal agencies with
18 task force investigations whenever possible.

19 The department's Bureau of Narcotic Enforcement, Bureau of
20 Forensic Services, and Bureau of Investigations shall provide
21 staffing and logistical support for the crackdown task forces,
22 supplying special agents, criminal intelligence analysts, forensic
23 experts, financial auditors, equipment, and funding to the task
24 forces as needed.

25 (c) Local law enforcement agencies participating in the Crack
26 Down Task Force Program shall be reimbursed by the department
27 for personnel overtime costs and equipment or supplies required
28 for task force activities.

29 SEC. 6. ~~Section 15155 of the Government Code is amended~~
30 ~~to read:~~

31 ~~15155. The committee shall consist of representatives from~~
32 ~~the following organizations:~~

33 ~~(1) Two representatives from the Peace Officers' Association~~
34 ~~of the State of California.~~

35 ~~(2) One representative from the California State Sheriffs'~~
36 ~~Association.~~

37 ~~(3) One representative from the League of California Cities.~~

38 ~~(4) One representative from the County Supervisors Association~~
39 ~~of California.~~

40 ~~(5) One representative from the Department of Justice.~~

1 ~~(6) One representative from the Department of Motor Vehicles.~~

2 ~~(7) One representative from the Department of General Services.~~

3 ~~(8) One representative from the California Highway Patrol.~~

4 ~~(9) One representative from the California Police Chiefs~~
5 ~~Association.~~

6 ~~(10) One representative from the Chief Probation Officers of~~
7 ~~California.~~

8 SEC. 7.

9 SEC. 6. Section 11648 of the Health and Safety Code is
10 repealed.

11 SEC. 7. *Section 227 of the Labor Code is amended to read:*

12 227. Whenever an employer has agreed with any employee to
13 make payments to a health or welfare fund, pension fund or
14 vacation plan, or other ~~such~~ *similar* plan for the benefit of the
15 employees, or a negotiated industrial promotion fund, or has
16 entered into a collective bargaining agreement providing for ~~such~~
17 *these* payments, it shall be unlawful for ~~such an~~ *that* employer
18 willfully or with intent to defraud to fail to make the payments
19 required by the terms of ~~any such~~ *that* agreement. A violation of
20 any provision of this section where the amount the employer failed
21 to pay into the fund or funds exceeds five hundred dollars (\$500)
22 shall be punishable by imprisonment in the state prison ~~for a period~~
23 ~~of not more than five years~~, or in ~~the~~ *a* county jail for a period of
24 not more than one year, by a fine of not more than one thousand
25 dollars (\$1,000), or by both ~~such that~~ imprisonment and fine. All
26 other violations shall be punishable as a misdemeanor.

27 SEC. 8. Section 290.3 of the Penal Code is amended to read:

28 290.3. (a) Every person who is convicted of any offense
29 specified in subdivision (c) of Section 290 shall, in addition to any
30 imprisonment or fine, or both, imposed for commission of the
31 underlying offense, be punished by a fine of three hundred dollars
32 (\$300) upon the first conviction or a fine of five hundred dollars
33 (\$500) upon the second and each subsequent conviction, unless
34 the court determines that the defendant does not have the ability
35 to pay the fine.

36 An amount equal to all fines collected pursuant to this
37 subdivision during the preceding month upon conviction of, or
38 upon the forfeiture of bail by, any person arrested for, or convicted
39 of, committing an offense specified in subdivision (c) of Section
40 290, shall be transferred once a month by the county treasurer to

1 the Controller for deposit in the General Fund. Moneys deposited
2 in the General Fund pursuant to this subdivision shall be transferred
3 by the Controller as provided in subdivision (b).

4 (b) Except as provided in subdivision (d), out of the moneys
5 deposited pursuant to subdivision (a) as a result of second and
6 subsequent convictions of Section 290, one-third shall first be
7 transferred to the Department of Justice Sexual Habitual Offender
8 Fund, as provided in paragraph (1) of this subdivision. Out of the
9 remainder of all moneys deposited pursuant to subdivision (a), 50
10 percent shall be transferred to the Department of Justice Sexual
11 Habitual Offender Fund, as provided in paragraph (1), 25 percent
12 shall be transferred to the DNA Identification Fund, as established
13 by Section 76104.6 of the Government Code, and 25 percent shall
14 be allocated equally to counties that maintain a local DNA testing
15 laboratory, as provided in paragraph (2).

16 (1) Those moneys so designated shall be transferred to the
17 Department of Justice Sexual Habitual Offender Fund created
18 pursuant to paragraph (5) of subdivision (b) of Section 11170 and,
19 when appropriated by the Legislature, shall be used for the
20 purposes of Chapter 9.5 (commencing with Section 13885) and
21 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
22 for the purpose of monitoring, apprehending, and prosecuting
23 sexual habitual offenders.

24 (2) Those moneys so designated shall be allocated equally and
25 distributed quarterly to counties that maintain a local DNA testing
26 laboratory. Before making any allocations under this paragraph,
27 the Controller shall deduct the estimated costs that will be incurred
28 to set up and administer the payment of these funds to the counties.
29 Any funds allocated to a county pursuant to this paragraph shall
30 be used by that county for the exclusive purpose of testing DNA
31 samples for law enforcement purposes.

32 (c) Notwithstanding any other provision of this section, the
33 Department of Corrections and Rehabilitation may collect a fine
34 imposed pursuant to this section from a person convicted of a
35 violation of any offense listed in subdivision (c) of Section 290,
36 that results in incarceration in a facility under the jurisdiction of
37 the Department of Corrections and Rehabilitation. All moneys
38 collected by the Department of Corrections and Rehabilitation
39 under this subdivision shall be transferred, once a month, to the
40 Controller for deposit in the General Fund, as provided in

1 subdivision (a), for transfer by the Controller, as provided in
2 subdivision (b).

3 (d) An amount equal to one-third of every first conviction fine
4 collected and one-fifth of every second conviction fine collected
5 pursuant to subdivision (a) shall be transferred to the Department
6 of Corrections and Rehabilitation to help defray the cost of the
7 global positioning system used to monitor sex offender parolees.

8 *SEC. 9. Section 538d of the Penal Code is amended to read:*

9 538d. (a) Any person other than one who by law is given the
10 authority of a peace officer, who willfully wears, exhibits, or uses
11 the authorized uniform, insignia, emblem, device, label, certificate,
12 card, or writing, of a peace officer, with the intent of fraudulently
13 impersonating a peace officer, or of fraudulently inducing the
14 belief that he or she is a peace officer, is guilty of a misdemeanor.

15 (b) (1) Any person, other than the one who by law is given the
16 authority of a peace officer, who willfully wears, exhibits, or uses
17 the badge of a peace officer with the intent of fraudulently
18 impersonating a peace officer, or of fraudulently inducing the
19 belief that he or she is a peace officer, is guilty of a misdemeanor
20 punishable by imprisonment in a county jail not to exceed one
21 year, by a fine not to exceed two thousand dollars (\$2,000), or by
22 both that imprisonment and fine.

23 (2) Any person who willfully wears or uses any badge that
24 falsely purports to be authorized for the use of one who by law is
25 given the authority of a peace officer, or which so resembles the
26 authorized badge of a peace officer as would deceive any ordinary
27 reasonable person into believing that it is authorized for the use
28 of one who by law is given the authority of a peace officer, for the
29 purpose of fraudulently impersonating a peace officer, or of
30 fraudulently inducing the belief that he or she is a peace officer,
31 is guilty of a misdemeanor punishable by imprisonment in a county
32 jail not to exceed one year, by a fine not to exceed two thousand
33 dollars (\$2,000), or by both that imprisonment and fine.

34 (c) Any person who willfully wears, exhibits, or uses, or who
35 willfully makes, sells, loans, gives, or transfers to another, any
36 badge, insignia, emblem, device, or any label, certificate, card, or
37 writing, which falsely purports to be authorized for the use of one
38 who by law is given the authority of a peace officer, or which so
39 resembles the authorized badge, insignia, emblem, device, label,
40 certificate, card, or writing of a peace officer as would deceive an

1 ordinary reasonable person into believing that it is authorized for
2 the use of one who by law is given the authority of a peace officer,
3 is guilty of a misdemeanor, except that any person who makes or
4 sells any badge under the circumstances described in this
5 subdivision is subject to a fine not to exceed fifteen thousand
6 dollars (\$15,000).

7 (d) (1) Vendors of law enforcement uniforms shall verify that
8 a person purchasing a uniform identifying a law enforcement
9 agency is an employee of the agency identified on the uniform.
10 Presentation and examination of a valid identification card with a
11 picture of the person purchasing the uniform and identification,
12 on the letterhead of the law enforcement agency, of the person
13 buying the uniform as an employee of the agency identified on the
14 uniform shall be sufficient verification.

15 (2) Any uniform vendor who sells a uniform identifying a law
16 enforcement agency, without verifying that the purchaser is an
17 employee of the agency, is guilty of a misdemeanor, punishable
18 by a fine of not more than one thousand dollars (\$1,000).

19 (3) This subdivision shall not apply if the uniform is to be used
20 solely as a prop for a motion picture, television, video production,
21 or a theatrical event, and prior written permission has been obtained
22 by from the identified law enforcement agency.

23 ~~SEC. 9.~~

24 *SEC. 10.* Section 830.2 of the Penal Code is amended to read:

25 830.2. The following persons are peace officers whose authority
26 extends to any place in the state:

27 (a) Any member of the Department of the California Highway
28 Patrol including those members designated under subdivision (a)
29 of Section 2250.1 of the Vehicle Code, provided that the primary
30 duty of the peace officer is the enforcement of any law relating to
31 the use or operation of vehicles upon the highways, or laws
32 pertaining to the provision of police services for the protection of
33 state officers, state properties, and the occupants of state properties,
34 or both, as set forth in the Vehicle Code and Government Code.

35 (b) A member of the University of California Police Department
36 appointed pursuant to Section 92600 of the Education Code,
37 provided that the primary duty of the peace officer shall be the
38 enforcement of the law within the area specified in Section 92600
39 of the Education Code.

1 (c) A member of the California State University Police
2 Departments appointed pursuant to Section 89560 of the Education
3 Code, provided that the primary duty of the peace officer shall be
4 the enforcement of the law within the area specified in Section
5 89560 of the Education Code.

6 (d) (1) Any member of the Office of Correctional Safety of the
7 Department of Corrections and Rehabilitation, provided that the
8 primary duties of the peace officer shall be the investigation or
9 apprehension of *inmates, wards, parolees, parole violators, or*
10 *escapees from state institutions, the transportation of those persons,*
11 *the investigation of any violation of criminal law discovered while*
12 *performing the usual and authorized duties of employment,* and
13 the coordination of those activities with other criminal justice
14 agencies.

15 (2) Any member of the Office of Internal Affairs of the
16 Department of Corrections and Rehabilitation, provided that the
17 primary duties shall be criminal investigations of Department of
18 Corrections and Rehabilitation personnel and the coordination of
19 those activities with other criminal justice agencies. For purposes
20 of this subdivision, the member of the Office of Internal Affairs
21 shall possess certification from the Commission on Peace Officer
22 Standards and Training for investigators, or have completed
23 training pursuant to Section 6126.1 of the Penal Code.

24 (e) Employees of the Department of Fish and Game designated
25 by the director, provided that the primary duty of those peace
26 officers shall be the enforcement of the law as set forth in Section
27 856 of the Fish and Game Code.

28 (f) Employees of the Department of Parks and Recreation
29 designated by the director pursuant to Section 5008 of the Public
30 Resources Code, provided that the primary duty of the peace officer
31 shall be the enforcement of the law as set forth in Section 5008 of
32 the Public Resources Code.

33 (g) The Director of Forestry and Fire Protection and employees
34 or classes of employees of the Department of Forestry and Fire
35 Protection designated by the director pursuant to Section 4156 of
36 the Public Resources Code, provided that the primary duty of the
37 peace officer shall be the enforcement of the law as that duty is
38 set forth in Section 4156 of the Public Resources Code.

39 (h) Persons employed by the Department of Alcoholic Beverage
40 Control for the enforcement of Division 9 (commencing with

1 Section 23000) of the Business and Professions Code and
2 designated by the Director of Alcoholic Beverage Control, provided
3 that the primary duty of any of these peace officers shall be the
4 enforcement of the laws relating to alcoholic beverages, as that
5 duty is set forth in Section 25755 of the Business and Professions
6 Code.

7 (i) Marshals and police appointed by the Board of Directors of
8 the California Exposition and State Fair pursuant to Section 3332
9 of the Food and Agricultural Code, provided that the primary duty
10 of the peace officers shall be the enforcement of the law as
11 prescribed in that section.

12 (j) The Inspector General, pursuant to Section 6125, and the
13 Chief Deputy Inspector General In Charge, the Senior Deputy
14 Inspector General, the Deputy Inspector General, and those
15 employees of the Inspector General as designated by the Inspector
16 General, are peace officers, provided that the primary duty of these
17 peace officers shall be conducting audits of investigatory practices
18 and other audits, as well as conducting investigations, of the
19 Department of Corrections and Rehabilitation, Division of Juvenile
20 Justice and the Board of Parole Hearings.

21 *SEC. 11. Section 1126 of the Penal Code is amended to read:*

22 1126. In a trial for any ~~offense~~, *offense*, questions of law are
23 to be decided by the court, and questions of fact by the jury.
24 Although the jury has the power to find a general verdict, which
25 includes questions of law as well as of fact, they are bound,
26 nevertheless, to receive as law what is laid down as such by the
27 court.

28 *SEC. 12. Section 1170.11 of the Penal Code is amended to*
29 *read:*

30 1170.11. As used in Section 1170.1, the term “specific
31 enhancement” means an enhancement that relates to the
32 circumstances of the crime. It includes, but is not limited to, the
33 enhancements provided in Sections 186.10, 186.11, 186.22, 186.26,
34 186.33, 192.5, 273.4, 289.5, 290.4, 290.45, 290.46, 347, and 368,
35 subdivisions (a) and (b) of Section 422.75, paragraphs (2), (3), (4),
36 and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3),
37 and (4) of subdivision (a) of Section 452.1, subdivision (g) of
38 Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10,
39 667.15, 667.16, 667.17, 674, 675, 12021.5, 12022, 12022.2,
40 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7,

1 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and
2 12280 of this code, and in Sections 1522.01 and 11353.1,
3 subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5,
4 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.7, 25189.5,
5 and 25189.7 of the Health and Safety Code, and in Sections 20001
6 and 23558 of the Vehicle Code, and in Sections 10980 and 14107
7 of the Welfare and Institutions Code.

8 ~~SEC. 10.~~

9 *SEC. 13.* Section 1298 of the Penal Code is amended to read:

10 1298. In lieu of a deposit of money, the defendant or any other
11 person may deposit bonds of the United States or of the State of
12 California of the face value of the cash deposit required, and these
13 bonds shall be treated in the same manner as a deposit of money
14 or the defendant or any other person may give as security any
15 equity in real property which he or she owns, provided that no
16 charge is made to the defendant or any other person for the giving
17 as security of any equity in real property. A hearing, at which
18 witnesses may be called or examined, shall be held before the
19 magistrate to determine the value of the equity and if the magistrate
20 finds that the value of the equity is equal to twice the amount of
21 the cash deposit required he or she shall allow the bail. The clerk
22 shall, under order of the court, when occasion arises therefor, sell
23 the bonds or the equity and apply the proceeds of the sale in the
24 manner that a deposit of cash may be required to be applied.

25 ~~SEC. 11.~~

26 *SEC. 14.* Section 11102.1 of the Penal Code is amended to
27 read:

28 11102.1. (a) (1) Notwithstanding any other law, the
29 Department of Justice shall establish, implement, and maintain a
30 certification program to process fingerprint-based criminal
31 background clearances on individuals who roll fingerprint
32 impressions, manually or electronically, for non-law-enforcement
33 purposes. Except as provided in paragraph (2), no person shall roll
34 fingerprints for non-law-enforcement purposes unless certified.

35 (2) The following persons shall be exempt from this section if
36 they have received training pertaining to applicant fingerprint
37 rolling and have undergone a criminal offender record information
38 background investigation:

39 (A) Law enforcement personnel and state employees.

1 (B) Employees of a tribal gaming agency or a tribal gaming
2 operation, provided that the fingerprints are rolled and submitted
3 to the Department of Justice for purposes of compliance with a
4 tribal-state compact.

5 (3) The department shall not accept fingerprint impressions for
6 non-law-enforcement purposes unless they were rolled by an
7 individual certified or exempted pursuant to this section.

8 (b) Individuals who roll fingerprint impressions, either manually
9 or electronically, for non-law-enforcement purposes, must submit
10 to the Department of Justice fingerprint images and related
11 information, along with the appropriate fees and documentation.
12 The department shall retain one copy of the fingerprint impressions
13 to process a state level criminal background clearance, and it shall
14 submit one copy of the fingerprint impressions to the Federal
15 Bureau of Investigation to process a federal level criminal
16 background clearance.

17 (c) The department shall retain the fingerprint impressions for
18 subsequent arrest notification pursuant to Section 11105.2.

19 (d) Every individual certified as a fingerprint roller shall meet
20 the following criteria:

21 (1) Be a legal resident of this state at the time of certification.

22 (2) Be at least 18 years of age.

23 (3) Have satisfactorily completed a notarized written application
24 prescribed by the department to determine the fitness of the person
25 to exercise the functions of a fingerprint roller.

26 (e) Prior to granting a certificate as a fingerprint roller, the
27 department shall determine that the applicant possesses the required
28 honesty, credibility, truthfulness, and integrity to fulfill the
29 responsibilities of the position.

30 (f) (1) The department shall refuse to certify any individual as
31 a fingerprint roller, and shall revoke the certification of any
32 fingerprint roller, upon either of the following:

33 (A) Conviction of a felony offense.

34 (B) Conviction of any other offense that both involves moral
35 turpitude, dishonesty, or fraud, and bears on the applicant's ability
36 to perform the duties or responsibilities of a fingerprint roller.

37 (2) A conviction after a plea of nolo contendere is deemed to
38 be a conviction for purposes of this subdivision.

39 (g) In addition to subdivision (f), the department may refuse to
40 certify any individual as a fingerprint roller, and may revoke or

1 suspend the certification of any fingerprint roller upon any of the
2 following:

3 (1) Substantial and material misstatement or omission in the
4 application submitted to the department.

5 (2) Arrest pending adjudication for a felony.

6 (3) Arrest pending adjudication for a lesser offense that both
7 involves moral turpitude, dishonesty, or fraud, and bears on the
8 applicant's ability to perform the duties or responsibilities of a
9 fingerprint roller.

10 (4) Revocation, suspension, restriction, or denial of a
11 professional license, if the revocation, suspension, restriction, or
12 denial was for misconduct, dishonesty, or for any cause
13 substantially related to the duties or responsibilities of a fingerprint
14 roller.

15 (5) Failure to discharge fully and faithfully any of the duties or
16 responsibilities required of a fingerprint roller.

17 (6) When adjudged liable for damages in any suit grounded in
18 fraud, misrepresentation, or in violation of the state regulatory
19 laws, or in any suit based upon a failure to discharge fully and
20 faithfully the duties of a fingerprint roller.

21 (7) Use of false or misleading advertising in which the
22 fingerprint roller has represented that he or she has duties, rights,
23 or privileges that he or she does not possess by law.

24 (8) Commission of any act involving dishonesty, fraud, or deceit
25 with the intent to substantially benefit the fingerprint roller or
26 another, or to substantially injure another.

27 (9) Failure to submit any remittance payable upon demand by
28 the department or failure to satisfy any court ordered money
29 judgment, including restitution.

30 (h) The Department of Justice shall work with applicant
31 regulatory entities to improve and make more efficient the criminal
32 offender record information request process related to employment,
33 licensing, and certification background investigations.

34 (i) The Department of Justice may adopt regulations as necessary
35 to implement the provisions of this section.

36 (j) The department shall charge a fee sufficient to cover its costs
37 under this section.

38 ~~SEC. 12.~~

39 *SEC. 15.* Section 11112.5 of the Penal Code is amended to
40 read:

1 11112.5. (a) Costs for equipment purchases based upon the
2 master plan approved by the Attorney General, including state
3 sales tax, freight, insurance, and installation, shall be prorated
4 between the state and local governmental entity. The state's share
5 shall be 70 percent. The local government's share shall be 30
6 percent, paid in legal tender. Purchases may be made under the
7 existing Cal-ID contract through the Department of General
8 Services.

9 (b) Alternatively, at the discretion of the local board, an
10 independent competitive procurement may be initiated under the
11 following conditions:

12 (1) Prior to submitting a bid in an independent procurement,
13 any prospective bidder must demonstrate the ability to meet or
14 exceed performance levels established in the existing Cal-ID
15 contract and demonstrate the ability to interface with Cal-ID and
16 meet or exceed performance levels established in the existing
17 Cal-ID contract without degrading the performance of the Cal-ID
18 system.

19 (2) Both qualifying benchmarks will be at the prospective
20 bidder's expense and will be conducted by the Department of
21 Justice.

22 (3) In the event that no vendor other than the existing contract
23 vendor qualifies to bid, purchases shall be made by the Department
24 of General Services on behalf of local agencies pursuant to the
25 existing Cal-ID contract.

26 (c) Competitive local procurements must adhere to the following
27 guidelines:

28 (1) Administrative requirements contained within Section 5200
29 of the State Administrative Manual shall be met.

30 (2) Local procurements shall not increase the costs the state
31 would otherwise be obligated to pay.

32 (3) Final bids submitted in an independent procurement shall
33 contain a signed contract that represents an irrevocable offer that
34 does not materially deviate from the terms and conditions of the
35 existing Cal-ID contract.

36 (4) The selected vendor shall post a performance bond in an
37 amount equal to 25 percent of the local equipment costs. The bond
38 shall remain in effect until the local acceptance test has been
39 successfully completed.

(5) Requests for tender, including contract language, shall be approved by the Department of General Services prior to release. The Department of General Services and the Department of Justice shall be represented on the evaluation and selection team.

(d) The local government agency shall be responsible for all costs related to conducting a local bid, site preparation, equipment maintenance, ongoing operational costs, file conversion over and above those records that are available on magnetic media from the Department of Justice, and equipment enhancements or systems design which exceed the basic design specifications of the Department of Justice. The state shall provide sufficient circuitry to each county, or group of counties to handle all fingerprint data traffic. The state shall provide for annual maintenance of that line.

~~SEC. 13.~~

SEC. 16. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

1 (6) The State Department of Social Services or any county
2 licensing agency which has contracted with the state, as specified
3 in paragraph (4) of subdivision (b) of Section 11170, when an
4 individual has applied for a community care license or child day
5 care license, or for employment in an out-of-home care facility,
6 or when a complaint alleges child abuse or neglect by an operator
7 or employee of an out-of-home care facility.

8 (7) Hospital scan teams. As used in this paragraph, “hospital
9 scan team” means a team of three or more persons established by
10 a hospital, or two or more hospitals in the same county, consisting
11 of health care professionals and representatives of law enforcement
12 and child protective services, the members of which are engaged
13 in the identification of child abuse or neglect. The disclosure
14 authorized by this section includes disclosure among all hospital
15 scan teams.

16 (8) Coroners and medical examiners when conducting a post
17 mortem examination of a child.

18 (9) The Board of Parole Hearings, which may subpoena an
19 employee of a county welfare department who can provide relevant
20 evidence and reports that both (A) are not unfounded, pursuant to
21 Section 11165.12, and (B) concern only the current incidents upon
22 which parole revocation proceedings are pending against a parolee
23 charged with child abuse or neglect. The reports and information
24 shall be confidential pursuant to subdivision (d) of Section 11167.

25 (10) Personnel from an agency responsible for making a
26 placement of a child pursuant to Section 361.3 of, and Article 7
27 (commencing with Section 305) of Chapter 2 of Part 1 of Division
28 2 of, the Welfare and Institutions Code.

29 (11) Persons who have been identified by the Department of
30 Justice as listed in the Child Abuse Central Index pursuant to
31 paragraph (7) of subdivision (b) of Section 11170 or subdivision
32 (c) of Section 11170, or persons who have verified with the
33 Department of Justice that they are listed in the Child Abuse
34 Central Index as provided in subdivision (f) of Section 11170.
35 Disclosure under this paragraph is required notwithstanding the
36 California Public Records Act, Chapter 3.5 (commencing with
37 Section 6250) of Division 7 of Title 1 of the Government Code.
38 Nothing in this paragraph shall preclude a submitting agency prior
39 to disclosure from redacting any information necessary to maintain
40 confidentiality as required by law.

1 (12) Out-of-state law enforcement agencies conducting an
2 investigation of child abuse or neglect only when an agency makes
3 the request for reports of suspected child abuse or neglect in writing
4 and on official letterhead, or as designated by the Department of
5 Justice, identifying the suspected abuser or victim by name and
6 date of birth or approximate age. The request shall be signed by
7 the department supervisor of the requesting law enforcement
8 agency. The written request shall cite the out-of-state statute or
9 interstate compact provision that requires that the information
10 contained within these reports is to be disclosed only to law
11 enforcement, prosecutorial entities, or multidisciplinary
12 investigative teams, and shall cite the criminal penalties for
13 unlawful disclosure provided by the requesting state or the
14 applicable interstate compact provision. In the absence of both (A)
15 a specific out-of-state statute or interstate compact provision that
16 requires that the information contained within these reports be
17 disclosed only to law enforcement, prosecutorial entities, or
18 multidisciplinary investigative teams, and (B) criminal penalties
19 equivalent to the penalties in California for unlawful disclosure,
20 access shall be denied.

21 (13) Out-of-state agencies responsible for approving prospective
22 foster or adoptive parents or relative caregivers for placement of
23 a child only when the agency makes the request for information
24 in writing on official letterhead, transmitted by mail, fax, or
25 electronic transmission, or as designated by the Department of
26 Justice. The request shall identify the prospective foster or adoptive
27 parent or relative caregiver, and any other adult living in the home,
28 by name and date of birth or approximate age. The request shall
29 be signed by the department supervisor of the requesting agency.
30 The request shall cite the out-of-state statute or interstate compact
31 provision that requires that the information contained in the reports
32 shall be disclosed and used for no purpose other than conducting
33 background checks in foster or adoptive cases. The request shall
34 also cite the criminal penalties for unlawful disclosure provided
35 by the requesting state or the applicable interstate compact
36 provision. In the absence of an out-of-state statute or interstate
37 compact provision that requires that the information contained
38 within the reports be disclosed and used for no purpose other than
39 conducting background checks in foster or adoptive cases, and

1 criminal penalties equivalent to the penalties in California for
2 unlawful disclosure, access shall be denied.

3 (14) Each chairperson of a county child death review team, or
4 his or her designee, to whom disclosure of information is permitted
5 under this article, relating to the death of one or more children and
6 any prior child abuse or neglect investigation reports maintained
7 involving the same victim, siblings, or suspects. Local child death
8 review teams may share any relevant information regarding case
9 reviews involving child death with other child death review teams.

10 (c) Authorized persons within county health departments shall
11 be permitted to receive copies of any reports made by health
12 practitioners, as defined in paragraphs (21) to (28), inclusive, of
13 subdivision (a) of Section 11165.7, and pursuant to Section
14 11165.13, and copies of assessments completed pursuant to
15 Sections 123600 and 123605 of the Health and Safety Code, to
16 the extent permitted by federal law. Any information received
17 pursuant to this subdivision is protected by subdivision (e).

18 (d) Nothing in this section requires the Department of Justice
19 to disclose information contained in records maintained under
20 Section 11170 or under the regulations promulgated pursuant to
21 Section 11174, except as otherwise provided in this article.

22 (e) This section shall not be interpreted to allow disclosure of
23 any reports or records relevant to the reports of child abuse or
24 neglect if the disclosure would be prohibited by any other
25 provisions of state or federal law applicable to the reports or records
26 relevant to the reports of child abuse or neglect.

27 ~~SEC. 14.~~

28 *SEC. 17.* Section 12020 of the Penal Code is amended to read:

29 12020. (a) Any person in this state who does any of the
30 following is punishable by imprisonment in a county jail not
31 exceeding one year or in the state prison:

32 (1) Manufactures or causes to be manufactured, imports into
33 the state, keeps for sale, or offers or exposes for sale, or who gives,
34 lends, or possesses any cane gun or wallet gun, any undetectable
35 firearm, any firearm which is not immediately recognizable as a
36 firearm, any camouflaging firearm container, any ammunition
37 which contains or consists of any fléchette dart, any bullet
38 containing or carrying an explosive agent, any ballistic knife, any
39 multiburst trigger activator, any nunchaku, any short-barreled
40 shotgun, any short-barreled rifle, any metal knuckles, any belt

1 buckle knife, any leaded cane, any zip gun, any shuriken, any
2 unconventional pistol, any lipstick case knife, any cane sword, any
3 shobi-zue, any air gauge knife, any writing pen knife, any metal
4 military practice handgrenade or metal replica handgrenade, or
5 any instrument or weapon of the kind commonly known as a
6 blackjack, slungshot, billy, sandclub, sap, or sandbag.

7 (2) Commencing January 1, 2000, manufactures or causes to
8 be manufactured, imports into the state, keeps for sale, or offers
9 or exposes for sale, or who gives, or lends, any large-capacity
10 magazine.

11 (3) Carries concealed upon his or her person any explosive
12 substance, other than fixed ammunition.

13 (4) Carries concealed upon his or her person any dirk or dagger.

14 However, a first offense involving any metal military practice
15 handgrenade or metal replica handgrenade shall be punishable
16 only as an infraction unless the offender is an active participant in
17 a criminal street gang as defined in the Street Terrorism and
18 Enforcement and Prevention Act (Chapter 11 (commencing with
19 Section 186.20) of Title 7 of Part 1). A bullet containing or carrying
20 an explosive agent is not a destructive device as that term is used
21 in Section 12301.

22 (b) Subdivision (a) does not apply to any of the following:

23 (1) The sale to, purchase by, or possession of short-barreled
24 shotguns or short-barreled rifles by police departments, sheriffs'
25 offices, marshals' offices, the California Highway Patrol, the
26 Department of Justice, the Department of Corrections and
27 Rehabilitation, or the military or naval forces of this state or of the
28 United States for use in the discharge of their official duties or the
29 possession of short-barreled shotguns and short-barreled rifles by
30 peace officer members of a police department, sheriff's office,
31 marshal's office, the California Highway Patrol, the Department
32 of Justice, or the Department of Corrections and Rehabilitation,
33 when on duty and the use is authorized by the agency and is within
34 the course and scope of their duties and the peace officer has
35 completed a training course in the use of these weapons certified
36 by the Commission on Peace Officer Standards and Training.

37 (2) The manufacture, possession, transportation or sale of
38 short-barreled shotguns or short-barreled rifles when authorized
39 by the Department of Justice pursuant to Article 6 (commencing
40 with Section 12095) and not in violation of federal law.

1 (3) The possession of a nunchaku on the premises of a school
2 which holds a regulatory or business license and teaches the arts
3 of self-defense.

4 (4) The manufacture of a nunchaku for sale to, or the sale of a
5 nunchaku to, a school which holds a regulatory or business license
6 and teaches the arts of self-defense.

7 (5) Any antique firearm. For purposes of this section, “antique
8 firearm” means any firearm not designed or redesigned for using
9 rimfire or conventional center fire ignition with fixed ammunition
10 and manufactured in or before 1898 (including any matchlock,
11 flintlock, percussion cap, or similar type of ignition system or
12 replica thereof, whether actually manufactured before or after the
13 year 1898) and also any firearm using fixed ammunition
14 manufactured in or before 1898, for which ammunition is no longer
15 manufactured in the United States and is not readily available in
16 the ordinary channels of commercial trade.

17 (6) Tracer ammunition manufactured for use in shotguns.

18 (7) Any firearm or ammunition that is a curio or relic as defined
19 in Section 478.11 of Title 27 of the Code of Federal Regulations
20 and which is in the possession of a person permitted to possess the
21 items pursuant to Chapter 44 (commencing with Section 921) of
22 Title 18 of the United States Code and the regulations issued
23 pursuant thereto. Any person prohibited by Section 12021, 12021.1,
24 or 12101 of this code or Section 8100 or 8103 of the Welfare and
25 Institutions Code from possessing firearms or ammunition who
26 obtains title to these items by bequest or intestate succession may
27 retain title for not more than one year, but actual possession of
28 these items at any time is punishable pursuant to Section 12021,
29 12021.1, or 12101 of this code or Section 8100 or 8103 of the
30 Welfare and Institutions Code. Within the year, the person shall
31 transfer title to the firearms or ammunition by sale, gift, or other
32 disposition. Any person who violates this paragraph is in violation
33 of subdivision (a).

34 (8) Any other weapon as defined in subsection (e) of Section
35 5845 of Title 26 of the United States Code and which is in the
36 possession of a person permitted to possess the weapons pursuant
37 to the federal Gun Control Act of 1968 (Public Law 90-618), as
38 amended, and the regulations issued pursuant thereto. Any person
39 prohibited by Section 12021, 12021.1, or 12101 of this code or
40 Section 8100 or 8103 of the Welfare and Institutions Code from

1 possessing these weapons who obtains title to these weapons by
2 bequest or intestate succession may retain title for not more than
3 one year, but actual possession of these weapons at any time is
4 punishable pursuant to Section 12021, 12021.1, or 12101 of this
5 code or Section 8100 or 8103 of the Welfare and Institutions Code.
6 Within the year, the person shall transfer title to the weapons by
7 sale, gift, or other disposition. Any person who violates this
8 paragraph is in violation of subdivision (a). The exemption
9 provided in this subdivision does not apply to pen guns.

10 (9) Instruments or devices that are possessed by federal, state,
11 and local historical societies, museums, and institutional collections
12 which are open to the public, provided that these instruments or
13 devices are properly housed, secured from unauthorized handling,
14 and, if the instrument or device is a firearm, unloaded.

15 (10) Instruments or devices, other than short-barreled shotguns
16 or short-barreled rifles, that are possessed or utilized during the
17 course of a motion picture, television, or video production or
18 entertainment event by an authorized participant therein in the
19 course of making that production or event or by an authorized
20 employee or agent of the entity producing that production or event.

21 (11) Instruments or devices, other than short-barreled shotguns
22 or short-barreled rifles, that are sold by, manufactured by, exposed
23 or kept for sale by, possessed by, imported by, or lent by persons
24 who are in the business of selling instruments or devices listed in
25 subdivision (a) solely to the entities referred to in paragraphs (9)
26 and (10) when engaging in transactions with those entities.

27 (12) The sale to, possession of, or purchase of any weapon,
28 device, or ammunition, other than a short-barreled rifle or
29 short-barreled shotgun, by any federal, state, county, city and
30 county, or city agency that is charged with the enforcement of any
31 law for use in the discharge of their official duties, or the
32 possession of any weapon, device, or ammunition, other than a
33 short-barreled rifle or short-barreled shotgun, by peace officers
34 thereof when on duty and the use is authorized by the agency and
35 is within the course and scope of their duties.

36 (13) Weapons, devices, and ammunition, other than a
37 short-barreled rifle or short-barreled shotgun, that are sold by,
38 manufactured by, exposed or kept for sale by, possessed by,
39 imported by, or lent by, persons who are in the business of selling
40 weapons, devices, and ammunition listed in subdivision (a) solely

1 to the entities referred to in paragraph (12) when engaging in
2 transactions with those entities.

3 (14) The manufacture for, sale to, exposing or keeping for sale
4 to, importation of, or lending of wooden clubs or batons to special
5 police officers or uniformed security guards authorized to carry
6 any wooden club or baton pursuant to Section 12002 by entities
7 that are in the business of selling wooden batons or clubs to special
8 police officers and uniformed security guards when engaging in
9 transactions with those persons.

10 (15) Any plastic toy handgrenade, or any metal military practice
11 handgrenade or metal replica handgrenade that is a relic, curio,
12 memorabilia, or display item, that is filled with a permanent inert
13 substance or that is otherwise permanently altered in a manner that
14 prevents ready modification for use as a grenade.

15 (16) Any instrument, ammunition, weapon, or device listed in
16 subdivision (a) that is not a firearm that is found and possessed by
17 a person who meets all of the following:

18 (A) The person is not prohibited from possessing firearms or
19 ammunition pursuant to Section 12021 or 12021.1 or paragraph
20 (1) of subdivision (b) of Section 12316 of this code or Section
21 8100 or 8103 of the Welfare and Institutions Code.

22 (B) The person possessed the instrument, ammunition, weapon,
23 or device no longer than was necessary to deliver or transport the
24 same to a law enforcement agency for that agency's disposition
25 according to law.

26 (C) If the person is transporting the listed item, he or she is
27 transporting the listed item to a law enforcement agency for
28 disposition according to law.

29 (17) Any firearm, other than a short-barreled rifle or
30 short-barreled shotgun, that is found and possessed by a person
31 who meets all of the following:

32 (A) The person is not prohibited from possessing firearms or
33 ammunition pursuant to Section 12021 or 12021.1 or paragraph
34 (1) of subdivision (b) of Section 12316 of this code or Section
35 8100 or 8103 of the Welfare and Institutions Code.

36 (B) The person possessed the firearm no longer than was
37 necessary to deliver or transport the same to a law enforcement
38 agency for that agency's disposition according to law.

1 (C) If the person is transporting the firearm, he or she is
2 transporting the firearm to a law enforcement agency for
3 disposition according to law.

4 (D) Prior to transporting the firearm to a law enforcement
5 agency, he or she has given prior notice to that law enforcement
6 agency that he or she is transporting the firearm to that law
7 enforcement agency for disposition according to law.

8 (E) The firearm is transported in a locked container as defined
9 in subdivision (d) of Section 12026.2.

10 (18) The possession of any weapon, device, or ammunition, by
11 a forensic laboratory or any authorized agent or employee thereof
12 in the course and scope of his or her authorized activities.

13 (19) The sale of, giving of, lending of, importation into this state
14 of, or purchase of, any large-capacity magazine to or by any
15 federal, state, county, city and county, or city agency that is charged
16 with the enforcement of any law, for use by agency employees in
17 the discharge of their official duties whether on or off duty, and
18 where the use is authorized by the agency and is within the course
19 and scope of their duties.

20 (20) The sale to, lending to, transfer to, purchase by, receipt of,
21 or importation into this state of, a large-capacity magazine by a
22 sworn peace officer as defined in Chapter 4.5 (commencing with
23 Section 830) of Title 3 of Part 2 who is authorized to carry a
24 firearm in the course and scope of his or her duties.

25 (21) The sale or purchase of any large-capacity magazine to or
26 by a person licensed pursuant to Section 12071.

27 (22) The loan of a lawfully possessed large-capacity magazine
28 between two individuals if all of the following conditions are met:

29 (A) The person being loaned the large-capacity magazine is not
30 prohibited by Section 12021, 12021.1, or 12101 of this code or
31 Section 8100 or 8103 of the Welfare and Institutions Code from
32 possessing firearms or ammunition.

33 (B) The loan of the large-capacity magazine occurs at a place
34 or location where the possession of the large-capacity magazine
35 is not otherwise prohibited and the person who lends the
36 large-capacity magazine remains in the accessible vicinity of the
37 person to whom the large-capacity magazine is loaned.

38 (23) The importation of a large-capacity magazine by a person
39 who lawfully possessed the large-capacity magazine in the state
40 prior to January 1, 2000, lawfully took it out of the state, and is

1 returning to the state with the large-capacity magazine previously
2 lawfully possessed in the state.

3 (24) The lending or giving of any large-capacity magazine to a
4 person licensed pursuant to Section 12071, or to a gunsmith, for
5 the purposes of maintenance, repair, or modification of that
6 large-capacity magazine.

7 (25) The return to its owner of any large-capacity magazine by
8 a person specified in paragraph (24).

9 (26) The importation into this state of, or sale of, any
10 large-capacity magazine by a person who has been issued a permit
11 to engage in those activities pursuant to Section 12079, when those
12 activities are in accordance with the terms and conditions of that
13 permit.

14 (27) The sale of, giving of, lending of, importation into this state
15 of, or purchase of, any large-capacity magazine, to or by entities
16 that operate armored vehicle businesses pursuant to the laws of
17 this state.

18 (28) The lending of large-capacity magazines by the entities
19 specified in paragraph (27) to their authorized employees, while
20 in the course and scope of their employment for purposes that
21 pertain to the entity's armored vehicle business.

22 (29) The return of those large-capacity magazines to those
23 entities specified in paragraph (27) by those employees specified
24 in paragraph (28).

25 (30) (A) The manufacture of a large-capacity magazine for any
26 federal, state, county, city and county, or city agency that is charged
27 with the enforcement of any law, for use by agency employees in
28 the discharge of their official duties whether on or off duty, and
29 where the use is authorized by the agency and is within the course
30 and scope of their duties.

31 (B) The manufacture of a large-capacity magazine for use by a
32 sworn peace officer as defined in Chapter 4.5 (commencing with
33 Section 830) of Title 3 of Part 2 who is authorized to carry a
34 firearm in the course and scope of his or her duties.

35 (C) The manufacture of a large-capacity magazine for export
36 or for sale to government agencies or the military pursuant to
37 applicable federal regulations.

38 (31) The loan of a large-capacity magazine for use solely as a
39 prop for a motion picture, television, or video production.

(32) The purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305, for any of the following purposes:

(A) For use solely as a prop for a motion picture, television, or video production.

(B) For export pursuant to federal regulations.

(C) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

(c) (1) As used in this section, a “short-barreled shotgun” means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

1 (E) Any part, or combination of parts, designed and intended
2 to convert a device into a device defined in subparagraphs (A) to
3 (C), inclusive, or any combination of parts from which a device
4 defined in subparagraphs (A) to (C), inclusive, may be readily
5 assembled if those parts are in the possession or under the control
6 of the same person.

7 (3) As used in this section, a “nunchaku” means an instrument
8 consisting of two or more sticks, clubs, bars or rods to be used as
9 handles, connected by a rope, cord, wire, or chain, in the design
10 of a weapon used in connection with the practice of a system of
11 self-defense such as karate.

12 (4) As used in this section, a “wallet gun” means any firearm
13 mounted or enclosed in a case, resembling a wallet, designed to
14 be or capable of being carried in a pocket or purse, if the firearm
15 may be fired while mounted or enclosed in the case.

16 (5) As used in this section, a “cane gun” means any firearm
17 mounted or enclosed in a stick, staff, rod, crutch, or similar device,
18 designed to be, or capable of being used as, an aid in walking, if
19 the firearm may be fired while mounted or enclosed therein.

20 (6) As used in this section, a “fléchette dart” means a dart,
21 capable of being fired from a firearm, that measures approximately
22 one inch in length, with tail fins that take up approximately
23 five-sixteenths of an inch of the body.

24 (7) As used in this section, “metal knuckles” means any device
25 or instrument made wholly or partially of metal which is worn for
26 purposes of offense or defense in or on the hand and which either
27 protects the wearer’s hand while striking a blow or increases the
28 force of impact from the blow or injury to the individual receiving
29 the blow. The metal contained in the device may help support the
30 hand or fist, provide a shield to protect it, or consist of projections
31 or studs which would contact the individual receiving a blow.

32 (8) As used in this section, a “ballistic knife” means a device
33 that propels a knifelike blade as a projectile by means of a coil
34 spring, elastic material, or compressed gas. Ballistic knife does
35 not include any device which propels an arrow or a bolt by means
36 of any common bow, compound bow, crossbow, or underwater
37 speargun.

38 (9) As used in this section, a “camouflaging firearm container”
39 means a container which meets all of the following criteria:

40 (A) It is designed and intended to enclose a firearm.

1 (B) It is designed and intended to allow the firing of the enclosed
2 firearm by external controls while the firearm is in the container.

3 (C) It is not readily recognizable as containing a firearm.

4 “Camouflaging firearm container” does not include any
5 camouflaging covering used while engaged in lawful hunting or
6 while going to or returning from a lawful hunting expedition.

7 (10) As used in this section, a “zip gun” means any weapon or
8 device which meets all of the following criteria:

9 (A) It was not imported as a firearm by an importer licensed
10 pursuant to Chapter 44 (commencing with Section 921) of Title
11 18 of the United States Code and the regulations issued pursuant
12 thereto.

13 (B) It was not originally designed to be a firearm by a
14 manufacturer licensed pursuant to Chapter 44 (commencing with
15 Section 921) of Title 18 of the United States Code and the
16 regulations issued pursuant thereto.

17 (C) No tax was paid on the weapon or device nor was an
18 exemption from paying tax on that weapon or device granted under
19 Section 4181 and Subchapters F (commencing with Section 4216)
20 and G (commencing with Section 4221) of Chapter 32 of Title 26
21 of the United States Code, as amended, and the regulations issued
22 pursuant thereto.

23 (D) It is made or altered to expel a projectile by the force of an
24 explosion or other form of combustion.

25 (11) As used in this section, a “shuriken” means any instrument,
26 without handles, consisting of a metal plate having three or more
27 radiating points with one or more sharp edges and designed in the
28 shape of a polygon, trefoil, cross, star, diamond, or other geometric
29 shape for use as a weapon for throwing.

30 (12) As used in this section, an “unconventional pistol” means
31 a firearm that does not have a rifled bore and has a barrel or barrels
32 of less than 18 inches in length or has an overall length of less than
33 26 inches.

34 (13) As used in this section, a “belt buckle knife” is a knife
35 which is made an integral part of a belt buckle and consists of a
36 blade with a length of at least 2½ inches.

37 (14) As used in this section, a “lipstick case knife” means a
38 knife enclosed within and made an integral part of a lipstick case.

39 (15) As used in this section, a “cane sword” means a cane,
40 swagger stick, stick, staff, rod, pole, umbrella, or similar device,

1 having concealed within it a blade that may be used as a sword or
2 stiletto.

3 (16) As used in this section, a “shobi-zue” means a staff, crutch,
4 stick, rod, or pole concealing a knife or blade within it which may
5 be exposed by a flip of the wrist or by a mechanical action.

6 (17) As used in this section, a “leaded cane” means a staff,
7 crutch, stick, rod, pole, or similar device, unnaturally weighted
8 with lead.

9 (18) As used in this section, an “air gauge knife” means a device
10 that appears to be an air gauge but has concealed within it a
11 pointed, metallic shaft that is designed to be a stabbing instrument
12 which is exposed by mechanical action or gravity which locks into
13 place when extended.

14 (19) As used in this section, a “writing pen knife” means a
15 device that appears to be a writing pen but has concealed within
16 it a pointed, metallic shaft that is designed to be a stabbing
17 instrument which is exposed by mechanical action or gravity which
18 locks into place when extended or the pointed, metallic shaft is
19 exposed by the removal of the cap or cover on the device.

20 (20) As used in this section, a “rifle” means a weapon designed
21 or redesigned, made or remade, and intended to be fired from the
22 shoulder and designed or redesigned and made or remade to use
23 the energy of the explosive in a fixed cartridge to fire only a single
24 projectile through a rifled bore for each single pull of the trigger.

25 (21) As used in this section, a “shotgun” means a weapon
26 designed or redesigned, made or remade, and intended to be fired
27 from the shoulder and designed or redesigned and made or remade
28 to use the energy of the explosive in a fixed shotgun shell to fire
29 through a smooth bore either a number of projectiles (ball shot)
30 or a single projectile for each pull of the trigger.

31 (22) As used in this section, an “undetectable firearm” means
32 any weapon which meets one of the following requirements:

33 (A) When, after removal of grips, stocks, and magazines, it is
34 not as detectable as the Security Exemplar, by walk-through metal
35 detectors calibrated and operated to detect the Security Exemplar.

36 (B) When any major component of which, when subjected to
37 inspection by the types of X-ray machines commonly used at
38 airports, does not generate an image that accurately depicts the
39 shape of the component. Barium sulfate or other compounds may
40 be used in the fabrication of the component.

1 (C) For purposes of this paragraph, the terms “firearm,” “major
2 component,” and “Security Exemplar” have the same meanings
3 as those terms are defined in Section 922 of Title 18 of the United
4 States Code.

5 All firearm detection equipment newly installed in nonfederal
6 public buildings in this state shall be of a type identified by either
7 the United States Attorney General, the Secretary of Transportation,
8 or the Secretary of the Treasury, as appropriate, as available
9 state-of-the-art equipment capable of detecting an undetectable
10 firearm, as defined, while distinguishing innocuous metal objects
11 likely to be carried on one’s person sufficient for reasonable
12 passage of the public.

13 (23) As used in this section, a “multiburst trigger activator”
14 means one of the following devices:

15 (A) A device designed or redesigned to be attached to a
16 semiautomatic firearm which allows the firearm to discharge two
17 or more shots in a burst by activating the device.

18 (B) A manual or power-driven trigger activating device
19 constructed and designed so that when attached to a semiautomatic
20 firearm it increases the rate of fire of that firearm.

21 (24) As used in this section, a “dirk” or “dagger” means a knife
22 or other instrument with or without a handguard that is capable of
23 ready use as a stabbing weapon that may inflict great bodily injury
24 or death. A nonlocking folding knife, a folding knife that is not
25 prohibited by Section 653k, or a pocketknife is capable of ready
26 use as a stabbing weapon that may inflict great bodily injury or
27 death only if the blade of the knife is exposed and locked into
28 position.

29 (25) As used in this section, “large-capacity magazine” means
30 any ammunition feeding device with the capacity to accept more
31 than 10 rounds, but shall not be construed to include any of the
32 following:

33 (A) A feeding device that has been permanently altered so that
34 it cannot accommodate more than 10 rounds.

35 (B) A .22 caliber tube ammunition feeding device.

36 (C) A tubular magazine that is contained in a lever-action
37 firearm.

38 (d) Knives carried in sheaths which are worn openly suspended
39 from the waist of the wearer are not concealed within the meaning
40 of this section.

~~SEC. 15.~~

SEC. 18. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the

1 permanent register of transactions that shall be retained for not
2 less than three years from the date of the last transaction and shall
3 be available for the inspection of any peace officer, Department
4 of Justice employee designated by the Attorney General, or agent
5 of the federal Bureau of Alcohol, Tobacco, Firearms, and
6 Explosives upon the presentation of proper identification, but no
7 information shall be compiled therefrom regarding the purchasers
8 or other transferees of firearms that are not pistols, revolvers, or
9 other firearms capable of being concealed upon the person.

10 (3) Two copies of the original sheet of the register, on the date
11 of the application to purchase, shall be placed in the mail, postage
12 prepaid, and properly addressed to the Department of Justice.

13 (4) If requested, a photocopy of the original shall be provided
14 to the purchaser by the dealer.

15 (5) If the transaction is a private party transfer conducted
16 pursuant to Section 12082, a photocopy of the original shall be
17 provided to the seller or purchaser by the dealer, upon request.
18 The dealer shall redact all of the purchaser's personal information,
19 as required pursuant to paragraph (1) of subdivision (b) and
20 paragraph (1) of subdivision (c) of Section 12077, from the seller's
21 copy, and the seller's personal information from the purchaser's
22 copy.

23 (c) (1) Where the electronic or telephonic transfer of applicant
24 information is used, the purchaser shall be required to present clear
25 evidence of his or her identity and age, as defined in Section 12071,
26 to the dealer, and the dealer shall require him or her to sign his or
27 her current legal name to the record of electronic or telephonic
28 transfer. The salesperson shall affix his or her signature to the
29 record of electronic or telephonic transfer as a witness to the
30 signature and identification of the purchaser. Any person furnishing
31 a fictitious name or address or knowingly furnishing any incorrect
32 information or knowingly omitting any information required to be
33 provided for the electronic or telephonic transfer and any person
34 violating any provision of this section is guilty of a misdemeanor,
35 provided however, that any person who is prohibited from
36 obtaining a firearm pursuant to Section 12021 or 12021.1 of this
37 code, or Section 8100 or 8103 of the Welfare and Institutions Code
38 who knowingly furnishes a fictitious name or address or knowingly
39 furnishes any incorrect information or knowingly omits any
40 information required to be provided for the register shall be

1 punished by imprisonment in a county jail not exceeding one year
2 or imprisonment in the state prison for a term of 8, 12, or 18
3 months.

4 (2) The record of applicant information shall be transmitted to
5 the Department of Justice by electronic or telephonic transfer on
6 the date of the application to purchase.

7 (3) The original of each record of electronic or telephonic
8 transfer shall be retained by the dealer in consecutive order. Each
9 original shall become the permanent record of the transaction that
10 shall be retained for not less than three years from the date of the
11 last transaction and shall be provided for the inspection of any
12 peace officer, Department of Justice employee designated by the
13 Attorney General, or agent of the federal Bureau of Alcohol,
14 Tobacco, Firearms, and Explosives upon the presentation of proper
15 identification, but no information shall be compiled therefrom
16 regarding the purchasers or other transferees of firearms that are
17 not pistols, revolvers, or other firearms capable of being concealed
18 upon the person.

19 (4) If requested, a copy of the record of electronic or telephonic
20 transfer shall be provided to the purchaser by the dealer.

21 (5) If the transaction is a private party transfer conducted
22 pursuant to Section 12082, a copy shall be provided to the seller
23 or purchaser by the dealer, upon request. The dealer shall redact
24 all of the purchaser's personal information, as required pursuant
25 to paragraph (1) of subdivision (b) and paragraph (1) of subdivision
26 (c) of Section 12077, from the seller's copy, and the seller's
27 personal information from the purchaser's copy.

28 (d) (1) The department shall examine its records, as well as
29 those records that it is authorized to request from the State
30 Department of Mental Health pursuant to Section 8104 of the
31 Welfare and Institutions Code, in order to determine if the
32 purchaser is a person described in Section 12021, 12021.1, or
33 subparagraph (A) of paragraph (9) of subdivision (a) of Section
34 12072 of this code or Section 8100 or 8103 of the Welfare and
35 Institutions Code.

36 (2) To the extent that funding is available, the Department of
37 Justice may participate in the National Instant Criminal Background
38 Check System (NICS), as described in subsection (t) of Section
39 922 of Title 18 of the United States Code, and, if that participation
40 is implemented, shall notify the dealer and the chief of the police

1 department of the city or city and county in which the sale was
2 made, or if the sale was made in a district in which there is no
3 municipal police department, the sheriff of the county in which
4 the sale was made, that the purchaser is a person prohibited from
5 acquiring a firearm under federal law.

6 (3) If the department determines that the purchaser is a person
7 described in Section 12021, 12021.1, or subparagraph (A) of
8 paragraph (9) of subdivision (a) of Section 12072 of this code or
9 Section 8100 or 8103 of the Welfare and Institutions Code, it shall
10 immediately notify the dealer and the chief of the police department
11 of the city or city and county in which the sale was made, or if the
12 sale was made in a district in which there is no municipal police
13 department, the sheriff of the county in which the sale was made,
14 of that fact.

15 (4) If the department determines that the copies of the register
16 submitted to it pursuant to paragraph (3) of subdivision (b) contain
17 any blank spaces or inaccurate, illegible, or incomplete information,
18 preventing identification of the purchaser or the pistol, revolver,
19 or other firearm to be purchased, or if any fee required pursuant
20 to subdivision (e) is not submitted by the dealer in conjunction
21 with submission of copies of the register, the department may
22 notify the dealer of that fact. Upon notification by the department,
23 the dealer shall submit corrected copies of the register to the
24 department, or shall submit any fee required pursuant to subdivision
25 (e), or both, as appropriate and, if notification by the department
26 is received by the dealer at any time prior to delivery of the firearm
27 to be purchased, the dealer shall withhold delivery until the
28 conclusion of the waiting period described in Sections 12071 and
29 12072.

30 (5) If the department determines that the information transmitted
31 to it pursuant to subdivision (c) contains inaccurate or incomplete
32 information preventing identification of the purchaser or the pistol,
33 revolver, or other firearm capable of being concealed upon the
34 person to be purchased, or if the fee required pursuant to
35 subdivision (e) is not transmitted by the dealer in conjunction with
36 transmission of the electronic or telephonic record, the department
37 may notify the dealer of that fact. Upon notification by the
38 department, the dealer shall transmit corrections to the record of
39 electronic or telephonic transfer to the department, or shall transmit
40 any fee required pursuant to subdivision (e), or both, as appropriate,

1 and if notification by the department is received by the dealer at
2 any time prior to delivery of the firearm to be purchased, the dealer
3 shall withhold delivery until the conclusion of the waiting period
4 described in Sections 12071 and 12072.

5 (e) The Department of Justice may require the dealer to charge
6 each firearm purchaser a fee not to exceed fourteen dollars (\$14),
7 except that the fee may be increased at a rate not to exceed any
8 increase in the California Consumer Price Index as compiled and
9 reported by the California Department of Industrial Relations. The
10 fee shall be no more than is necessary to fund the following:

11 (1) (A) The department for the cost of furnishing this
12 information.

13 (B) The department for the cost of meeting its obligations under
14 paragraph (2) of subdivision (b) of Section 8100 of the Welfare
15 and Institutions Code.

16 (2) Local mental health facilities for state-mandated local costs
17 resulting from the reporting requirements imposed by Section 8103
18 of the Welfare and Institutions Code.

19 (3) The State Department of Mental Health for the costs resulting
20 from the requirements imposed by Section 8104 of the Welfare
21 and Institutions Code.

22 (4) Local mental hospitals, sanitariums, and institutions for
23 state-mandated local costs resulting from the reporting
24 requirements imposed by Section 8105 of the Welfare and
25 Institutions Code.

26 (5) Local law enforcement agencies for state-mandated local
27 costs resulting from the notification requirements set forth in
28 subdivision (a) of Section 6385 of the Family Code.

29 (6) Local law enforcement agencies for state-mandated local
30 costs resulting from the notification requirements set forth in
31 subdivision (c) of Section 8105 of the Welfare and Institutions
32 Code.

33 (7) For the actual costs associated with the electronic or
34 telephonic transfer of information pursuant to subdivision (c).

35 (8) The Department of Food and Agriculture for the costs
36 resulting from the notification provisions set forth in Section 5343.5
37 of the Food and Agricultural Code.

38 (9) The department for the costs associated with subparagraph
39 (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

1 (C) For the actual costs associated with the preparation, sale,
2 processing, and filing of reports utilized pursuant to subdivision
3 (l) of Section 12078 or paragraph (18) of subdivision (b) of Section
4 12071, or clause (i) of subparagraph (A) of paragraph (2) of
5 subdivision (f) of Section 12072, or paragraph (3) of subdivision
6 (f) of Section 12072.

7 (D) For the actual costs associated with the electronic or
8 telephonic transfer of information pursuant to subdivision (c).

9 (2) If the department charges a fee pursuant to subparagraph
10 (B) of paragraph (1) of this subdivision, it shall be charged in the
11 same amount to all categories of transaction that are within that
12 subparagraph.

13 (3) Any costs incurred by the Department of Justice to
14 implement this subdivision shall be reimbursed from fees collected
15 and charged pursuant to this subdivision. No fees shall be charged
16 to the dealer pursuant to subdivision (e) for implementing this
17 subdivision.

18 (g) All money received by the department pursuant to this
19 section shall be deposited in the Dealers' Record of Sale Special
20 Account of the General Fund, which is hereby created, to be
21 available, upon appropriation by the Legislature, for expenditure
22 by the department to offset the costs incurred pursuant to this
23 section, paragraph (1) and subparagraph (D) of paragraph (2) of
24 subdivision (f) of Section 12072, Sections 12083 and 12099,
25 subdivision (c) of Section 12131, Sections 12234, 12289, and
26 12289.5, and subdivisions (f) and (g) of Section 12305.

27 (h) Where the electronic or telephonic transfer of applicant
28 information is used, the department shall establish a system to be
29 used for the submission of the fees described in subdivision (e) to
30 the department.

31 (i) (1) Only one fee shall be charged pursuant to this section
32 for a single transaction on the same date for the sale of any number
33 of firearms that are not pistols, revolvers, or other firearms capable
34 of being concealed upon the person or for the taking of possession
35 of those firearms.

36 (2) In a single transaction on the same date for the delivery of
37 any number of firearms that are pistols, revolvers, or other firearms
38 capable of being concealed upon the person, the department shall
39 charge a reduced fee pursuant to this section for the second and
40 subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

~~SEC. 16.~~

SEC. 19. Section 12082 of the Penal Code is amended to read:

12082. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall

1 forthwith deliver the firearm to the sheriff of the county or the
2 chief of police or other head of a municipal police department of
3 any city or city and county who shall then dispose of the firearm
4 in the manner provided by Sections 12028 and 12032. The
5 purchaser or transferee or person being loaned the firearm may be
6 required by the dealer to pay a fee not to exceed ten dollars (\$10)
7 per firearm, and no other fee may be charged by the dealer for a
8 sale, loan, or transfer of a firearm conducted pursuant to this
9 section, except for the applicable fees that may be charged pursuant
10 to Sections 12076, 12076.5, and 12088.9 and forwarded to the
11 Department of Justice, and the fees set forth in Section 12805.
12 Nothing in these provisions shall prevent a dealer from charging
13 a smaller fee. The dealer may not charge any additional fees.

14 (b) The Attorney General shall adopt regulations under this
15 section to do all of the following:

16 (1) Allow the seller or transferor or the person loaning the
17 firearm, and the purchaser or transferee or the person being loaned
18 the firearm, to complete a sale, loan, or transfer through a dealer,
19 and to allow those persons and the dealer to comply with the
20 requirements of this section and Sections 12071, 12072, 12076,
21 and 12077 and to preserve the confidentiality of those records.

22 (2) Where a personal handgun importer is selling or transferring
23 a pistol, revolver, or other firearm capable of being concealed upon
24 the person to comply with clause (ii) of subparagraph (A) of
25 paragraph (2) of subdivision (f) of Section 12072, to allow a
26 personal handgun importer's ownership of the pistol, revolver, or
27 other firearm capable of being concealed upon the person being
28 sold or transferred to be recorded in a manner that if the firearm
29 is returned to that personal handgun importer because the sale or
30 transfer cannot be completed, the Department of Justice will have
31 sufficient information about that personal handgun importer so
32 that a record of his or her ownership can be maintained in the
33 registry provided by subdivision (c) of Section 11106.

34 (3) Ensure that the register or record of electronic transfer shall
35 state the name and address of the seller or transferor of the firearm
36 or the person loaning the firearm and whether or not the person is
37 a personal handgun importer in addition to any other information
38 required by Section 12077.

1 (c) Notwithstanding any other provision of law, a dealer who
2 does not sell, transfer, or keep an inventory of handguns is not
3 required to process private party transfers of handguns.

4 (d) A violation of this section by a dealer is a misdemeanor.

5 ~~SEC. 17.~~

6 *SEC. 20.* Section 12091 of the Penal Code is repealed.

7 ~~SEC. 18.~~

8 *SEC. 21.* Section 13825.3 of the Penal Code is amended to
9 read:

10 13825.3. All funds made available to the Department of Justice
11 for purposes of this chapter shall be disbursed in accordance with
12 this chapter to community-based organizations and nonprofit
13 agencies that comply with the program requirements of Section
14 13825.4 and the funding criteria of Section 13825.5 of this chapter.

15 (a) Funds disbursed under this chapter may enhance, but shall
16 not supplant local, state, or federal funds that would, in the absence
17 of the California Gang, Crime, and Violence Prevention Partnership
18 Program, be made available for the prevention or intervention of
19 youth involvement in gangs, crime, or violence.

20 (b) The applicant community-based organization or nonprofit
21 agency may enter into interagency agreements between it and a
22 fiscal agent that will allow the fiscal agent to manage the funds
23 awarded to the community-based organization or nonprofit agency.

24 (c) Before April 15, 1998, the department shall prepare and file
25 administrative guidelines and procedures for the California Gang,
26 Crime, and Violence Prevention Partnership Program consistent
27 with this chapter.

28 (d) Before July 1, 1998, the department shall issue a “request
29 for funding proposal” that informs applicants of the purposes and
30 availability of funds to be awarded under this chapter and solicits
31 proposals from community-based organizations and nonprofit
32 agencies to provide services consistent with this chapter.

33 (e) The department shall conduct an evaluation of the California
34 Gang, Crime, and Violence Prevention Partnership Program after
35 two years of program operation and each year thereafter, for
36 purposes of identifying the effectiveness and results of the program.
37 The evaluation shall be conducted by staff or an independent body
38 that has experience in evaluating programs operated by
39 community-based organizations or nonprofit agencies.

(f) After two years of program operation, and each year thereafter, the department shall prepare and submit an annual report to the Legislature describing in detail the operation of the program and the results obtained from the California Gang, Crime, and Violence Prevention Partnership Program receiving funds under this chapter. The report shall also list the full costs applicable to the department for processing and reviewing applications, and for administering the California Gang, Crime, and Violence Prevention Partnership Program. The department shall be required to submit an annual report to the Legislature only in years in which the California Gang, Crime, and Violence Prevention Partnership Program receives funds under this chapter.

~~SEC. 19.~~

SEC. 22. Section 14204 of the Penal Code is amended to read:
14204. The Attorney General shall provide training on the services provided by the center to line personnel, supervisors, and investigators in the following fields: law enforcement, district attorneys' offices, the Department of Corrections and Rehabilitation, probation departments, court mediation services, and the judiciary. ~~The Commission on Peace Officer Standards and Training shall provide for the presentation of training to peace officers which will enable them to more efficiently handle, on the local level, the tracing of missing persons and victims of violent crimes.~~

~~SEC. 20.~~

SEC. 23. Section 10652 of the Vehicle Code is amended to read:

10652. Whenever any vehicle of a type subject to registration under this code has been stored in a garage, repair shop, parking lot, or trailer park for 30 days, the keeper shall report such fact to the Department of Justice by receipted mail, which shall at once notify the legal owner as of record. This section shall not apply to any vehicle stored by a peace officer or employee designated in Section 22651 pursuant to Article 3 (commencing with Section 22850) of Chapter 10 of Division 11.

SEC. 24. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the

1 person has been convicted of a violation of Section 23152 or 23153,
2 subdivision (a) of Section 23109, or Section 23109.1, or upon the
3 receipt of a report of a judge of the juvenile court, a juvenile traffic
4 hearing officer, or a referee of a juvenile court showing that the
5 person has been found to have committed a violation of Section
6 23152 or 23153 or subdivision (a) of Section 23109 or Section
7 23109.1. If an offense specified in this section occurs in a vehicle
8 defined in Section 15210, the suspension or revocation specified
9 below shall apply to the noncommercial driving privilege. The
10 commercial driving privilege shall be disqualified as specified in
11 Sections 15300 to 15302, inclusive. For the purposes of this
12 section, suspension or revocation shall be as follows:

13 (1) Except as required under Section 13352.1 or Section
14 13352.4, upon a conviction or finding of a violation of Section
15 23152 punishable under Section 23536, the privilege shall be
16 suspended for a period of six months.

17 The privilege may not be reinstated until the person gives proof
18 of financial responsibility and gives proof satisfactory to the
19 department of successful completion of a
20 driving-under-the-influence program licensed pursuant to Section
21 11836 of the Health and Safety Code described in subdivision (b)
22 of Section 23538. If the court, as authorized under paragraph (3)
23 of subdivision (b) of Section 23646, elects to order a person to
24 enroll, participate and complete either program described in
25 subdivision (b) of Section 23542, the department shall require that
26 program in lieu of the program described in subdivision (b) of
27 Section 23538. For the purposes of this paragraph, enrollment,
28 participation, and completion of an approved program shall be
29 subsequent to the date of the current violation. Credit may not be
30 given to any program activities completed prior to the date of the
31 current violation.

32 (2) Upon a conviction or finding of a violation of Section 23153
33 punishable under Section 23554, the privilege shall be suspended
34 for a period of one year. The privilege may not be reinstated until
35 the person gives proof of financial responsibility and gives proof
36 satisfactory to the department of successful completion of a
37 driving-under-the-influence program licensed pursuant to Section
38 11836 of the Health and Safety Code as described in subdivision
39 (b) of Section 23556. If the court, as authorized under paragraph
40 (3) of subdivision (b) of Section 23646, elects to order a person

1 to enroll, participate, and complete either program described in
2 subdivision (b) of Section 23542, the department shall require that
3 program in lieu of the program described in Section 23556. For
4 the purposes of this paragraph, enrollment, participation, and
5 completion of an approved program shall be subsequent to the date
6 of the current violation. Credit may not be given to any program
7 activities completed prior to the date of the current violation.

8 (3) Except as provided in Section 13352.5, upon a conviction
9 or finding of a violation of Section 23152 punishable under Section
10 23540, the privilege shall be suspended for two years. The privilege
11 may not be reinstated until the person gives proof of financial
12 responsibility and gives proof satisfactory to the department of
13 successful completion of a driving-under-the-influence program
14 licensed pursuant to Section 11836 of the Health and Safety Code
15 as described in subdivision (b) of Section 23542. For the purposes
16 of this paragraph, enrollment, participation, and completion of an
17 approved program shall be subsequent to the date of the current
18 violation. Credit shall not be given to any program activities
19 completed prior to the date of the current violation. The department
20 shall advise the person that after completion of 12 months of the
21 suspension period, which may include credit for a suspension
22 period served under subdivision (c) of Section 13353.3, the person
23 may apply to the department for a restricted driver's license, subject
24 to the following conditions:

25 (A) The person has satisfactorily provided, subsequent to the
26 violation date of the current underlying conviction, either of the
27 following:

28 (i) Proof of enrollment in an 18-month
29 driving-under-the-influence program licensed pursuant to Section
30 11836 of the Health and Safety Code.

31 (ii) Proof of enrollment in a 30-month
32 driving-under-the-influence program licensed pursuant to Section
33 11836 of the Health and Safety Code, if available in the county of
34 the person's residence or employment.

35 (B) The person agrees, as a condition of the restriction, to
36 continue satisfactory participation in the program described in
37 subparagraph (A).

38 (C) The person submits the "Verification of Installation" form
39 described in paragraph (2) of subdivision (g) of Section 13386.

1 (D) The person agrees to maintain the ignition interlock device
2 as required under subdivision (g) of Section 23575.

3 (E) The person provides proof of financial responsibility, as
4 defined in Section 16430.

5 (F) The person pays all administrative fees or reissue fees and
6 any restriction fee required by the department.

7 (G) The restriction shall remain in effect for the period required
8 in subdivision (f) of Section 23575.

9 (4) Except as provided in this paragraph, upon a conviction or
10 finding of a violation of Section 23153 punishable under Section
11 23560, the privilege shall be revoked for a period of three years.
12 The privilege may not be reinstated until the person gives proof
13 of financial responsibility, and the person gives proof satisfactory
14 to the department of successful completion of a
15 driving-under-the-influence program licensed pursuant to Section
16 11836 of the Health and Safety Code, as described in paragraph
17 (4) of subdivision (b) of Section 23562. For the purposes of this
18 paragraph, enrollment, participation, and completion of an
19 approved program shall be subsequent to the date of the current
20 violation. Credit shall not be given to any program activities
21 completed prior to the date of the current violation. The department
22 shall advise the person that after the completion of 12 months of
23 the revocation period, which may include credit for a suspension
24 period served under subdivision (c) of Section 13353.3, the person
25 may apply to the department for a restricted driver's license, subject
26 to the following conditions:

27 (A) The person has satisfactorily completed, subsequent to the
28 violation date of the current underlying conviction, either of the
29 following:

30 (i) The initial 12 months of an 18-month
31 driving-under-the-influence program licensed pursuant to Section
32 11836 of the Health and Safety Code.

33 (ii) The initial 12 months of a 30-month
34 driving-under-the-influence program licensed pursuant to Section
35 11836 of the Health and Safety Code, if available in the county of
36 the person's residence or employment, and the person agrees, as
37 a condition of the restriction, to continue satisfactory participation
38 in that 30-month program.

39 (B) The person submits the "Verification of Installation" form
40 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) The person agrees to maintain the ignition interlock device
2 as required under subdivision (g) of Section 23575.

3 (D) The person provides proof of financial responsibility, as
4 defined in Section 16430.

5 (E) The person pays all applicable reinstatement or reissue fees
6 and any restriction fee required by the department.

7 (F) The restriction shall remain in effect for the period required
8 in subdivision (f) of Section 23575.

9 (5) Except as provided in this paragraph, upon a conviction or
10 finding of a violation of Section 23152 punishable under Section
11 23546, the privilege shall be revoked for a period of three years.
12 The privilege may not be reinstated until the person files proof of
13 financial responsibility and gives proof satisfactory to the
14 department of successful completion of one of the following
15 programs: an 18-month driving-under-the-influence program
16 licensed pursuant to Section 11836 of the Health and Safety Code,
17 as described in subdivision (b) or (c) of Section 23548, or, if
18 available in the county of the person's residence or employment,
19 a 30-month driving-under-the-influence program licensed pursuant
20 to Section 11836 of the Health and Safety Code, or a program
21 specified in Section 8001 of the Penal Code. For the purposes of
22 this paragraph, enrollment, participation, and completion of an
23 approved program shall be subsequent to the date of the current
24 violation. Credit shall not be given to any program activities
25 completed prior to the date of the current violation. The department
26 shall advise the person that after completion of 12 months of the
27 revocation period, which may include credit for a suspension period
28 served under subdivision (c) of Section 13353.3, the person may
29 apply to the department for a restricted driver's license, subject to
30 the following conditions:

31 (A) The person has satisfactorily completed, subsequent to the
32 violation date of the current underlying conviction, either of the
33 following:

34 (i) The initial 12 months of an 18-month
35 driving-under-the-influence program licensed pursuant to Section
36 11836 of the Health and Safety Code.

37 (ii) The initial 12 months of a 30-month
38 driving-under-the-influence program licensed pursuant to Section
39 11836 of the Health and Safety Code, if available in the county of
40 the person's residence or employment, and the person agrees, as

1 a condition of the restriction, to continue satisfactory participation
2 in the 30-month driving-under-the-influence program.

3 (B) The person submits the “Verification of Installation” form
4 described in paragraph (2) of subdivision (g) of Section 13386.

5 (C) The person agrees to maintain the ignition interlock device
6 as required under subdivision (g) of Section 23575.

7 (D) The person provides proof of financial responsibility, as
8 defined in Section 16430.

9 (E) An individual convicted of a violation of Section 23152
10 punishable under Section 23546 may also, at any time after
11 sentencing, petition the court for referral to an 18-month
12 driving-under-the-influence program licensed pursuant to Section
13 11836 of the Health and Safety Code, or, if available in the county
14 of the person’s residence or employment, a 30-month
15 driving-under-the-influence program licensed pursuant to Section
16 11836 of the Health and Safety Code. Unless good cause is shown,
17 the court shall order the referral.

18 (F) The person pays all applicable reinstatement or reissue fees
19 and any restriction fee required by the department.

20 (G) The restriction shall remain in effect for the period required
21 in subdivision (f) of Section 23575.

22 (6) Except as provided in this paragraph, upon a conviction or
23 finding of a violation of Section 23153 punishable under Section
24 23550.5 or 23566, the privilege shall be revoked for a period of
25 five years. The privilege may not be reinstated until the person
26 gives proof of financial responsibility and proof satisfactory to the
27 department of successful completion of one of the following
28 programs: an 18-month driving-under-the-influence program
29 licensed pursuant to Section 11836 of the Health and Safety Code,
30 as described in subdivision (b) of Section 23568 or, if available in
31 the county of the person’s residence or employment, a 30-month
32 driving-under-the-influence program licensed pursuant to Section
33 11836 of the Health and Safety Code, or a program specified in
34 Section 8001 of the Penal Code. For the purposes of this paragraph,
35 enrollment, participation, and completion of an approved program
36 shall be subsequent to the date of the current violation. Credit shall
37 not be given to any program activities completed prior to the date
38 of the current violation. The department shall advise the person
39 that after the completion of 12 months of the revocation period,
40 which may include credit for a suspension period served under

subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(ii) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(7) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23550 or 23550.5, or Section 23153 punishable under Section 23550.5 the privilege shall be revoked for a period of four years. The privilege may not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department

1 of successful completion of one of the following programs: an
2 18-month driving-under-the-influence program licensed pursuant
3 to Section 11836 of the Health and Safety Code, or, if available
4 in the county of the person's residence or employment, a 30-month
5 driving-under-the-influence program licensed pursuant to Section
6 11836 of the Health and Safety Code, or a program specified in
7 Section 8001 of the Penal Code. For the purposes of this paragraph,
8 enrollment, participation, and completion of an approved program
9 shall be subsequent to the date of the current violation. Credit shall
10 not be given to any program activities completed prior to the date
11 of the current violation. The department shall advise the person
12 that after the completion of 12 months of the revocation period,
13 which may include credit for a suspension period served under
14 subdivision (c) of Section 13353.3, the person may apply to the
15 department for a restricted driver's license, subject to the following
16 conditions:

17 (A) The person has satisfactorily completed, subsequent to the
18 violation date of the current underlying conviction, either of the
19 following:

20 (i) The initial 12 months of an 18-month
21 driving-under-the-influence program licensed pursuant to Section
22 11836 of the Health and Safety Code.

23 (ii) The initial 12 months of a 30-month
24 driving-under-the-influence program licensed pursuant to Section
25 11836 of the Health and Safety Code, if available in the county of
26 the person's residence or employment, and the person agrees, as
27 a condition of the restriction, to continue satisfactory participation
28 in the 30-month driving-under-the-influence program.

29 (B) The person submits the "Verification of Installation" form
30 described in paragraph (2) of subdivision (g) of Section 13386.

31 (C) The person agrees to maintain the ignition interlock device
32 as required under subdivision (g) of Section 23575.

33 (D) The person provides proof of financial responsibility, as
34 defined in Section 16430.

35 (E) An individual convicted of a violation of Section 23152
36 punishable under Section 23550 may also, at any time after
37 sentencing, petition the court for referral to an 18-month
38 driving-under-the-influence program or, if available in the county
39 of the person's residence or employment, a 30-month
40 driving-under-the-influence program licensed pursuant to Section

1 11836 of the Health and Safety Code. Unless good cause is shown,
2 the court shall order the referral.

3 (F) The person pays all applicable reinstatement or reissue fees
4 and any restriction fee required by the department.

5 (G) The restriction shall remain in effect for the period required
6 in subdivision (f) of Section 23575.

7 (8) Upon a conviction or finding of a violation of *Section*
8 *23109.1* or subdivision (a) of Section 23109 ~~or Section 23109.1~~
9 that is punishable under subdivision (e) of that section, the privilege
10 shall be suspended for a period of 90 days to six months, if ordered
11 by the court. The privilege may not be reinstated until the person
12 gives proof of financial responsibility, as defined in Section 16430.

13 (9) Upon a conviction or finding of a violation of subdivision
14 (a) of Section 23109 that is punishable under subdivision (f) of
15 that section, the privilege shall be suspended for a period of six
16 months, if ordered by the court. The privilege may not be reinstated
17 until the person gives proof of financial responsibility, as defined
18 in Section 16430.

19 (b) For the purpose of paragraphs (2) to (9), inclusive, of
20 subdivision (a), the finding of the juvenile court judge, the juvenile
21 hearing officer, or the referee of a juvenile court of a commission
22 of a violation of Section 23152 or 23153 or subdivision (a) of
23 Section 23109 or Section 23109.1, as specified in subdivision (a)
24 of this section, is a conviction.

25 (c) A judge of a juvenile court, juvenile hearing officer, or
26 referee of a juvenile court shall immediately report the findings
27 specified in subdivision (a) to the department.

28 (d) A conviction of an offense in a state, territory, or possession
29 of the United States, the District of Columbia, the Commonwealth
30 of Puerto Rico, or Canada that, if committed in this state, would
31 be a violation of Section 23152, is a conviction of Section 23152
32 for the purposes of this section, and a conviction of an offense
33 that, if committed in this state, would be a violation of Section
34 23153, is a conviction of Section 23153 for the purposes of this
35 section. The department shall suspend or revoke the privilege to
36 operate a motor vehicle pursuant to this section upon receiving
37 notice of that conviction.

38 (e) For the purposes of the restriction conditions specified in
39 paragraphs (3) to (7), inclusive, of subdivision (a), the department
40 shall terminate the restriction imposed pursuant to this section and

1 shall suspend or revoke the person's driving privilege upon receipt
2 of notification from the driving-under-the-influence program that
3 the person has failed to comply with the program requirements.
4 The person's driving privilege shall remain suspended or revoked
5 for the remaining period of the original suspension or revocation
6 imposed under this section and until all reinstatement requirements
7 described in this section are met.

8 (f) For the purposes of this section, completion of a program is
9 the following:

10 (1) Satisfactory completion of all program requirements
11 approved pursuant to program licensure, as evidenced by a
12 certificate of completion issued, under penalty of perjury, by the
13 licensed program.

14 (2) Certification, under penalty of perjury, by the director of a
15 program specified in Section 8001 of the Penal Code, that the
16 person has completed a program specified in Section 8001 of the
17 Penal Code.

18 (g) The holder of a commercial driver's license who was
19 operating a commercial motor vehicle, as defined in Section 15210,
20 at the time of a violation that resulted in a suspension or revocation
21 of the person's noncommercial driving privilege under this section
22 is not eligible for the restricted driver's license authorized under
23 paragraphs (3) to (7), inclusive, of subdivision (a).

24 *SEC. 25. Section 40002 of the Vehicle Code is amended to*
25 *read:*

26 40002. (a) (1) When there is a violation of Section 40001, an
27 owner or any other person subject to Section 40001, who was not
28 driving the vehicle involved in the violation, may be mailed a
29 written notice to appear. An exact and legible duplicate copy of
30 that notice when filed with the court, in lieu of a verified complaint,
31 is a complaint to which the defendant may plead ~~"guilty"~~ "guilty."

32 (2) If, however, the defendant fails to appear in court or does
33 not deposit lawful bail, or pleads other than "guilty" of the offense
34 charged, a verified complaint shall be filed which shall be deemed
35 to be an original complaint, and thereafter proceedings shall be
36 had as provided by law, except that a defendant may, by an
37 agreement in writing, subscribed by the defendant and filed with
38 the court, waive the filing of a verified complaint and elect that
39 the prosecution may proceed upon a written notice to appear.

(3) A verified complaint pursuant to paragraph (2) shall include a paragraph that informs the person that unless he or she appears in the court designated in the complaint within 21 days after being given the complaint and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded by the department, or a warrant of arrest may be issued against him or her.

(b) (1) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, a warrant of arrest shall not be issued based on the notice to appear, even if that notice is verified. An arrest warrant may only be issued after a verified complaint pursuant to paragraph (2) of subdivision (a) is given the person and the person fails to appear in court to answer that complaint.

(2) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, the court may give by mail to the person a notice of noncompliance. A notice of noncompliance shall include a paragraph that informs the person that unless he or she appears in the court designated in the notice to appear within 21 days after being given by mail the notice of noncompliance and answers the charge on the notice to appear, or pays the applicable fine and penalties if an appearance is not required, renewal of registration of the vehicle involved in the offense may be precluded by the department.

(c) A verified complaint filed pursuant to this section shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code.

(d) (1) The giving ~~may~~ by mail of a notice to appear pursuant to paragraph (1) of subdivision (a) or a notice of noncompliance pursuant to paragraph (2) of subdivision (b) shall be done in a manner prescribed by Section 22.

(2) The verified complaint pursuant to paragraph (2) of subdivision (a) shall be given in a manner prescribed by Section 22.

SEC. 26. Section 731.1 of the Welfare and Institutions Code is amended to read:

731.1. Notwithstanding any other law, the court committing a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, upon the recommendation of the chief probation officer of the county, may recall that commitment in the

1 case of any ward whose commitment offense was not an offense
2 listed in subdivision (b) of Section 707, unless the offense was a
3 sex offense set forth in ~~paragraph (3) of subdivision (d)~~ (c) of
4 Section ~~290~~ 290.008 of the Penal Code, and who remains confined
5 in an institution operated by the division on or after September 1,
6 2007. Upon recall of the ward, the court shall set and convene a
7 recall disposition hearing for the purpose of ordering an alternative
8 disposition for the ward that is appropriate under all of the
9 circumstances prevailing in the case. The court shall provide to
10 the division no less than 15 days advance notice of the recall
11 hearing date, and the division shall transport and deliver the ward
12 to the custody of the probation department of the committing
13 county no less than five days prior to the scheduled date of the
14 recall hearing. Pending the recall disposition hearing, the ward
15 shall be detained or housed in the manner and place, consistent
16 with the requirements of law, as may be directed by the court in
17 its order of recall. The timing and procedure of the recall
18 disposition hearing shall be consistent with the rules, rights, and
19 procedures applicable to delinquency disposition hearings, as
20 described in Article 17 (commencing with Section 675).

21 *SEC. 27. Section 733 of the Welfare and Institutions Code is*
22 *amended to read:*

23 733. A ward of the juvenile court who meets any condition
24 described below shall not be committed to the Department of
25 Corrections and Rehabilitation, Division of Juvenile Facilities:

26 (a) The ward is under 11 years of age.

27 (b) The ward is suffering from any contagious, infectious, or
28 other disease that would probably endanger the lives or health of
29 the other inmates of any facility.

30 (c) The ward has been or is adjudged a ward of the court
31 pursuant to Section 602, and the most recent offense alleged in
32 any petition and admitted or found to be true by the court is not
33 described in subdivision (b) of Section 707, unless the offense is
34 a sex offense set forth in ~~paragraph (3) of subdivision (d)~~ (c) of
35 Section ~~290~~ 290.008 of the Penal Code. This subdivision shall be
36 effective on and after September 1, 2007.

37 *SEC. 28. Section 1731.5 of the Welfare and Institutions Code*
38 *is amended to read:*

1 1731.5. (a) After certification to the Governor as provided in
2 this article, a court may commit to the Division of Juvenile
3 Facilities any person who meets all of the following:

4 (1) Is convicted of an offense described in subdivision (b) of
5 Section 707 or ~~paragraph (3) of subdivision (d) (c) of Section 290~~
6 ~~290.008~~ of the Penal Code.

7 (2) Is found to be less than 21 years of age at the time of
8 apprehension.

9 (3) Is not sentenced to death, imprisonment for life, with or
10 without the possibility of parole, whether or not pursuant to Section
11 190 of the Penal Code, imprisonment for 90 days or less, or the
12 payment of a fine, or after having been directed to pay a fine,
13 defaults in the payment thereof, and is subject to imprisonment
14 for more than 90 days under the judgment.

15 (4) Is not granted probation, or was granted probation and that
16 probation is revoked and terminated.

17 (b) The Division of Juvenile Facilities shall accept a person
18 committed to it pursuant to this article if it believes that the person
19 can be materially ~~benefited~~ *benefitted* by its reformatory and
20 educational discipline, and if it has adequate facilities to provide
21 that care.

22 (c) Any person under 18 years of age who is not committed to
23 the division pursuant to this section may be transferred to the
24 authority by the Secretary of the Department of Corrections and
25 Rehabilitation with the approval of the Chief Deputy Secretary for
26 the Division of Juvenile Justice. In sentencing a person under 18
27 years of age, the court may order that the person shall be transferred
28 to the custody of the Division of Juvenile Facilities pursuant to
29 this subdivision. If the court makes this order and the division fails
30 to accept custody of the person, the person shall be returned to
31 court for resentencing. The transfer shall be solely for the purposes
32 of housing the inmate, allowing participation in the programs
33 available at the institution by the inmate, and allowing division
34 parole supervision of the inmate, who, in all other aspects shall be
35 deemed to be committed to the Department of Corrections and
36 Rehabilitation and shall remain subject to the jurisdiction of the
37 Secretary of the Department of Corrections and Rehabilitation and
38 the Board of Parole Hearings. Notwithstanding subdivision (b) of
39 Section 2900 of the Penal Code, the secretary, with the concurrence
40 of the chief deputy secretary, may designate a facility under the

1 jurisdiction of the chief deputy secretary as a place of reception
2 for any person described in this subdivision.

3 The chief deputy secretary shall have the same powers with
4 respect to an inmate transferred pursuant to this subdivision as if
5 the inmate had been committed or transferred to the Division of
6 Juvenile Facilities either under the Arnold-Kennick Juvenile Court
7 Law or subdivision (a).

8 The duration of the transfer shall extend until any of the
9 following occurs:

10 (1) The chief deputy secretary orders the inmate returned to the
11 Department of Corrections and Rehabilitation.

12 (2) The inmate is ordered discharged by the Board of Parole
13 Hearings.

14 (3) The inmate reaches 18 years of age. However, if the inmate's
15 period of incarceration would be completed on or before the
16 inmate's 21st birthday, the chief deputy secretary may continue
17 to house the inmate until the period of incarceration is completed.

18 *SEC. 29. Section 1766 of the Welfare and Institutions Code is*
19 *amended to read:*

20 1766. (a) Subject to Sections 733 and 1767.35, and subdivision
21 (b) of this section, if a person has been committed to the
22 Department of Corrections and Rehabilitation, Division of Juvenile
23 Facilities, the Board of Parole Hearings, according to standardized
24 review and appeal procedures established by the board in policy
25 and regulation and subject to the powers and duties enumerated
26 in subdivision (a) of Section 1719, may do any of the following:

27 (1) Permit the ward his or her liberty under supervision and
28 upon conditions it believes are best designed for the protection of
29 the public.

30 (2) Order his or her confinement under conditions it believes
31 best designed for the protection of the public pursuant to the
32 purposes set forth in Section 1700, except that a person committed
33 to the division pursuant to Sections 731 or 1731.5 may not be held
34 in physical confinement for a total period of time in excess of the
35 maximum periods of time set forth in Section 731. Nothing in this
36 subdivision limits the power of the board to retain the minor or
37 the young adult on parole status for the period permitted by
38 Sections 1769, 1770, and 1771.

39 (3) Order reconfinement or renewed release under supervision
40 as often as conditions indicate to be desirable.

1 (4) Revoke or modify any parole or disciplinary appeal order.

2 (5) Modify an order of discharge if conditions indicate that such
3 modification is desirable and when that modification is to the
4 benefit of the person committed to the division.

5 (6) Discharge him or her from its control when it is satisfied
6 that discharge is consistent with the protection of the public.

7 (b) The following provisions shall apply to any ward eligible
8 for release on parole on or after September 1, 2007, who was
9 committed to the custody of the Division of Juvenile Facilities for
10 an offense other than one described in subdivision (b) of Section
11 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal
12 Code:

13 (1) The county of commitment shall supervise the reentry of
14 any ward released on parole on or after September 1, 2007, who
15 was committed to the custody of the division for committing an
16 offense other than those described in subdivision (b) of Section
17 707 or ~~paragraph (3) of subdivision (d)~~ (c) of Section ~~290~~ 290.008
18 of the Penal Code.

19 (2) Not less than 60 days prior to the scheduled parole
20 consideration hearing of a ward described in this subdivision, the
21 division shall provide to the probation department and the court
22 of the committing county, and the ward's counsel, if known, the
23 most recent written review prepared pursuant to Section 1720,
24 along with notice of the parole consideration hearing date.

25 (3) Not less than 30 days prior to the scheduled parole
26 consideration hearing of a ward described in this subdivision, the
27 probation department of the committing county may provide the
28 division with its written plan for the reentry supervision of the
29 ward. At the parole consideration hearing, the Board of Parole
30 Hearings shall, in determining whether the ward is to be released,
31 consider a reentry supervision plan submitted by the county.

32 (4) Any ward described in this subdivision who is granted parole
33 shall be placed on parole jurisdiction for up to 15 court days
34 following his or her release. The board shall notify the probation
35 department and the court of the committing county within 48 hours
36 of a decision to release a ward.

37 (5) Within 15 court days of the release by the division of a ward
38 described in this subdivision, the committing court shall convene
39 a reentry disposition hearing for the ward. The purpose of the
40 hearing shall be for the court to identify those conditions of

1 probation that are appropriate under all the circumstances of the
2 case. The court shall, to the extent it deems appropriate, incorporate
3 a reentry plan submitted by the county probation department and
4 reviewed by the board into its disposition order. At the hearing the
5 ward shall be fully informed of the terms and conditions of any
6 order entered by the court, including the consequences for any
7 violation thereof. The procedure of the reentry disposition hearing
8 shall otherwise be consistent with the rules, rights, and procedures
9 applicable to delinquency disposition hearings as described in
10 Article 17 (commencing with Section 675) of Chapter 2 of Part 1
11 of Division 2.

12 (6) The division shall have no further jurisdiction over a ward
13 described in this subdivision who is released on parole by the board
14 upon the ward's court appearance pursuant to paragraph (5).

15 (c) Within 60 days of intake, the division shall provide the court
16 and the probation department with a treatment plan for the ward.

17 (d) A ward shall be entitled to an appearance hearing before a
18 panel of board commissioners for any action that would result in
19 the extension of a parole consideration date pursuant to subdivision
20 (d) of Section 5076.1 of the Penal Code.

21 (e) The department shall promulgate policies and regulations
22 to implement this section.

23 (f) Commencing on July 1, 2004, and annually thereafter, for
24 the preceding fiscal year, the department shall collect and make
25 available to the public the following information:

26 (1) The total number of ward case reviews conducted by the
27 division and the board, categorized by guideline category.

28 (2) The number of parole consideration dates for each category
29 set at guideline, above guideline, and below guideline.

30 (3) The number of ward case reviews resulting in a change to
31 a parole consideration date, including the category assigned to the
32 ward, the amount of time added to or subtracted from the parole
33 consideration date, and the specific reason for the change.

34 (4) The percentage of wards who have had a parole consideration
35 date changed to a later date, the percentage of wards who have
36 had a parole consideration date changed to an earlier date, and the
37 average annual time added or subtracted per case.

38 (5) The number and percentage of wards who, while confined
39 or on parole, are charged with a new misdemeanor or felony
40 criminal offense.

1 (6) Any additional data or information identified by the
2 department as relevant.

3 (g) As used in subdivision (f), the term “ward case review”
4 means any review of a ward that changes, maintains, or appreciably
5 affects the programs, treatment, or placement of a ward.

6 *SEC. 30. Section 1767.35 of the Welfare and Institutions Code*
7 *is amended to read:*

8 1767.35. Commencing on September 1, 2007, any parolee
9 under the jurisdiction of the Division of Juvenile Parole Operations
10 shall be returned to custody upon the suspension, cancellation, or
11 revocation of parole as follows:

12 (a) To the custody of the Division of Juvenile Facilities if the
13 parolee is under the jurisdiction of the division for the commission
14 of an offense described in subdivision (b) of Section 707 or an
15 offense described in ~~paragraph (3) of subdivision (d)~~ (c) of Section
16 ~~290 290.008~~ of the Penal Code.

17 (b) To the county of commitment if the parolee is under the
18 jurisdiction of the division for the commission of an offense not
19 described in subdivision (b) of Section 707 or paragraph (3) of
20 subdivision (d) of Section 290 of the Penal Code. If a ward subject
21 to this subdivision is detained by the Division of Juvenile Parole
22 Operations for the purpose of initiating proceedings to suspend,
23 cancel, or revoke the ward’s parole, the division shall notify the
24 court and probation department of the committing county within
25 48 hours of the ward’s detention that the ward is subject to parole
26 violation proceedings. Within 15 days of a parole violation notice
27 from the division, the committing court shall conduct a reentry
28 disposition hearing for the ward. Pending the hearing, the ward
29 may be detained by the division, provided that the division shall
30 deliver the ward to the custody of the probation department in the
31 county of commitment not more than three judicial days nor less
32 than two judicial days prior to the reentry disposition hearing. At
33 the hearing, at which the ward shall be entitled to representation
34 by counsel, the court shall consider the alleged violation of parole,
35 the risks and needs presented by the ward, and the reentry
36 disposition programs and sanctions that are available for the ward,
37 and enter a disposition order consistent with these considerations
38 and the protection of the public. The ward shall be fully informed
39 by the court of the terms, conditions, responsibilities, and sanctions
40 that are relevant to the reentry plan that is adopted by the court.

1 Upon delivery to the custody of the probation department for local
2 proceedings under this subdivision, the Division of Juvenile
3 Facilities and the Board of Parole Hearings shall have no further
4 jurisdiction or parole supervision responsibility for a ward subject
5 to this subdivision. The procedure of the reentry disposition
6 hearing, including the detention status of the ward in the event
7 continuances are ordered by the court, shall be consistent with the
8 rules, rights, and procedures applicable to delinquency disposition
9 hearings, as described in Article 17 (commencing with Section
10 675) of Chapter 2 of Part 1 of Division 2.

11 ~~SEC. 21.~~

12 *SEC. 31.* If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.

17 *SEC. 32.* Any section of any act, other than Senate Bill 1498,
18 enacted by the Legislature during the 2008 calendar year that
19 takes effect on or before January 1, 2009, and that amends, amends
20 and renumbers, adds, repeals and adds, or repeals any one or
21 more of the sections affected by this act shall prevail over this act,
22 whether this act is enacted prior to, or subsequent to, the enactment
23 of that act. The repeal, or repeal and addition, of any article,
24 chapter, part, title, or division of any code by this act shall not
25 become operative if any section of any other act, other than Senate
26 Bill 1498, that is enacted by the Legislature during the 2008
27 calendar year and takes effect on or before January 1, 2009,
28 amends, amends and renumbers, adds, repeals and adds, or repeals
29 any section contained in that article, chapter, part, title, or division.